Supreme Court, U.S.
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No. 85-899

In The
Supreme Court Of The United States

NOVEMBER TERM, 1985

STATE OF CONNECTICUT,
Petitioner,

v.

WILLIAM BARRETT,
Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CONNECTICUT

JOINT APPENDIX

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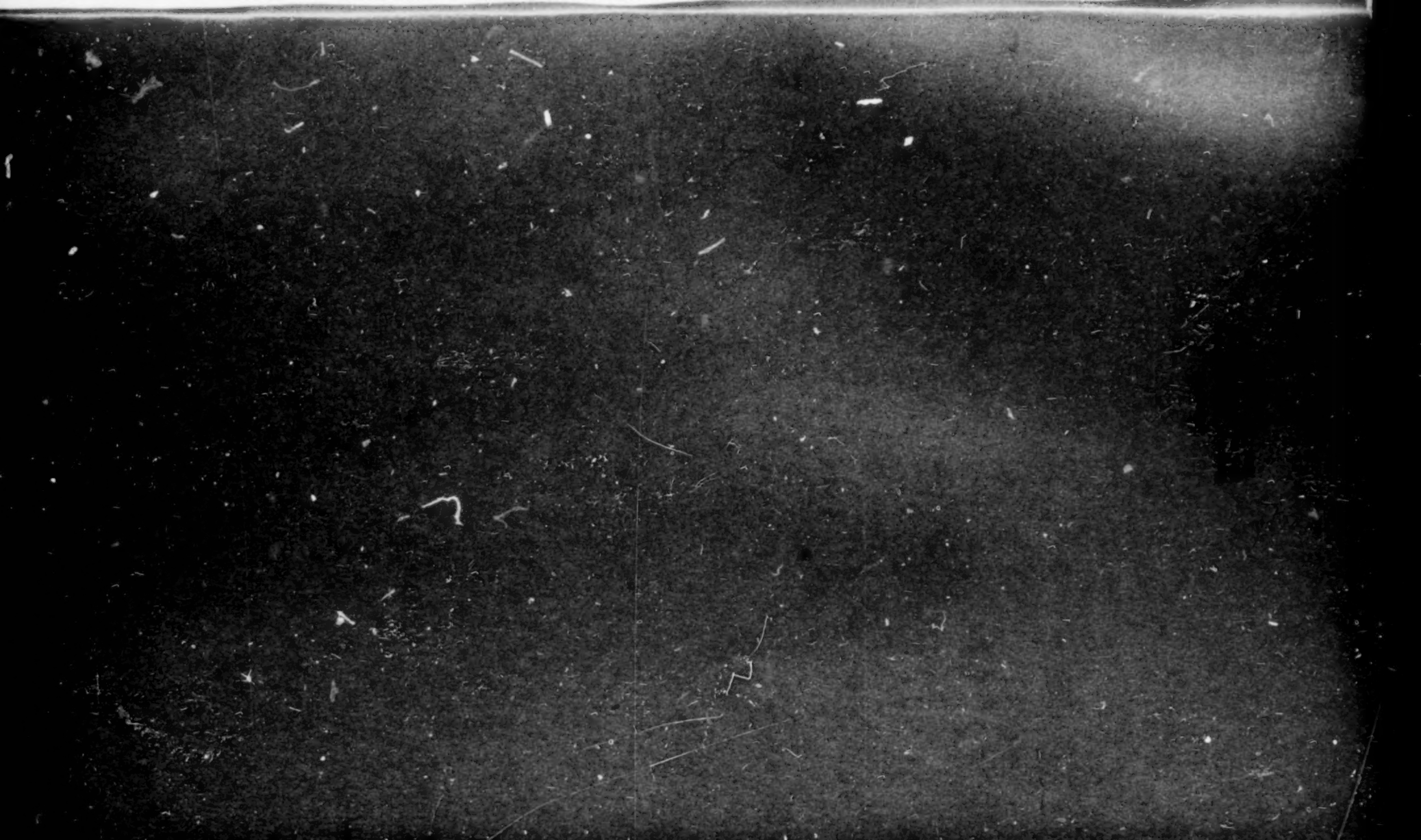
139 pp



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I. SUBSTITUTED INFORMATION DATED DECEMBER 1, 1982

SUBSTITUTE INFORMATION

Daniel A. Lyons, Jr., Asst. State's Attorney for the Judicial District of New Haven accuses William H. Barrett of Sexual Assault in the First Degree and charges that at the Town or City of Wallingford on or about the 23rd day of October 1980, between approximately 7:30 P.M. and 12:00 Midnight, in the area of Tyler Mill Road, the said William H. Barrett did compel another person to engage in sexual intercourse by the use of force against such other person and by the threat of use of force against such other person which reasonably did cause such person to fear physical injury to such person, in violation of Section 53a-70(a) of the General Statutes.

2nd Count

And the Attorney aforesaid further accuses William H. Barrett of Unlawful Restraint in the First Degree and charges that on or about the 23rd day of October, 1980, between the approximate hours of 7:30 P.M. and 12:00 Midnight, commencing in the City of New Haven and continuing to the area of Tyler Mill Road in the Town of Wallingford, the said William H. Barrett did restrain another person under circumstances which did expose the latter to a substantial risk of physical injury, in violation of Section 53a-95(a) of the General Statutes.

3rd Count

And the Attorney aforesaid further accuses William H. Barrett of Assault in the Third Degree and charges that at the Town of Wallingford, on or about the 23rd day of October, 1980, between approximately 7:30 P.M. and 12:00 Midnight, in the area of Tyler Mill Road, the said William H. Barrett, with intent to cause physical injury to another person, namely Mary Ann Jones, did cause such injury to such person, in violation of Section 53a-61(a)(1) of the General Statutes.

4th Count

And the Attorney aforesaid further accuses William H. Barrett of violation of the State Narcotic Drug Act and charges that at the City of New Haven, on or about the 23rd day of October, 1980, the said William H. Barrett did possess or have under his control less than four ounces of a cannabis-type substance, in violation of Section 19-481(c) of the General Statutes.

Daniel A. Lyons, Jr.,
Assistant State's
Attorney

Dated: December 1, 1982.

II. JUDGMENT IN *STATE V. BARRETT*

STATE OF CONNECTICUT

No. CR 7-64788	: SUPERIOR COURT
STATE OF CONNECTICUT	: JUDICIAL DISTRICT
VS.	: OF NEW HAVEN
WILLIAM H. BARRETT	: JANUARY 21, 1983

Present, Hon. Martin L. McKeever, Judge

JUDGMENT

The information of an Assistant State's Attorney, within and for the Judicial District of New Haven charging William B. Barrett with the crimes of Sexual Assault, 1st Degree (3 counts), Kidnapping, 2nd Degree, Assault, 3rd Degree, Threatening, was filed in the Superior Court, Geographical Area 7 in the October, 1980 criminal term of said Court, and thence to October 24, 1980 when said action was transferred to this Court, and thence to November 13, 1980 when the Court (Reynolds, J.) granted the State's Demand for notice of alibi defense and State's Motion for disclosure and inspection both filed October 29, 1980, and when the defendant filed a Motion to reduce bond, which the Court (Reynolds, J.) on said date denied, and when the State made an oral Motion to seal affidavit as to Public, which the Court (Reynolds, J.) granted, and when the defendant appeared before this Court and for plea said Not Guilty to said information and elected to be tried by a jury of six, and thence to December 3, 1980 when the Court (Reynolds, J.) granted per State vs. Acquin the Motion of the defendant filed November 24, 1980 to require notice of uncharged misconduct evidence, and when the Court (Reynolds, J.) granted the Motion of the defendant filed December 2, 1980 for copy of information, and thence to

January 28, 1981 when the State filed its Discovery as ordered by the Court (Reynolds, J.) on December 3, 1980, and thence to January 28, 1981 when the State, with permission of the Court, filed an amended information, as on file, thence to December 1, 1982 when the State's Attorney, with permission of the Court, filed a substituted information charging Sexual Assault, Unlawful Restraint, 1st Degree, Assault, 3rd Degree, and VSNDA 19-481(c), and when the defendant appeared before this Court and for plea said Not Guilty to said information and elected to be tried by a jury of six, and thence to December 9, 1982 when the defendant made an oral Motion to Suppress police statements—reports of Officers Howard, Genovese and Cameron, and thence to December 13, 1982 when the Court (McKeever, J.) denied said Motion as to Officers Howard and Cameron, and thence to December 14, 1982 when the defendant made an oral Motion for mistrial which the Court (McKeever, J.) on said date denied, and thence to December 16, 1982 when the defendant made an oral Motion for acquittal notwithstanding verdict, which the Court (McKeever, J.) on said date denied, and when all the evidence having been submitted, said action was committed to the jury who returned a verdict of Guilty to counts 1 and 2 charging Sexual Assault, 1st Degree and Unlawful restraint, 1st Degree and Guilty to count 4 charging VSNDA 19-481(c), and Not Guilty to the third count, which verdict was accepted and recorded by the Court, and thence to the present time when the defendant appeared for sentence.

Whereupon it is adjudged that the defendant be committed to the Commissioner of Correction for a term of not less than nine, nor more than eighteen years on the first count of said substituted information and not less than two and one-half years, nor more than five years on the second count and a term of six months on the fourth count, to run concurrent making a total effective sentence of not less than nine, nor more than eighteen years.

By the Court

Nicholas J. Cimmino
Chief Clerk

III. SELECTED TRANSCRIPT PORTIONS

A. Transcript Of Testimony Of Officer Peter D. Cameron. (Tr. pp. 444-478—Suppression Hearing)

PATROLMAN PETER D. CAMERON, Badge 80, Wallingford Police Department, 350 Center Street, Wallingford, Connecticut, first having been duly sworn, was examined and testified on his oath as follows:

DIRECT EXAMINATION BY MR. LYONS:

Q Officer Cameron, for how long have you been employed by the Wallingford Police Department, sir?

A Approximately six years, sir.

Q And were you employed in that capacity on October 24th of 1980?

A That is correct.

Q What shift were you working?

A The midnight shift. 11:00 to 7:00.

Q And did you have occasion to take an individual by the name of William Barrett into your custody?

A Yes, I did.

Q And at approximately what time did that occur?

A Actually, transporting him back from the city of New Haven to the town of Wallingford, it occurred somewhere around five o'clock that morning.

Q And do you recall what time you got back to the town of Wallingford?

A Approximately 5:30, 5:40.

Q When you say at the town, did you go to a specific place within that town?

A To the Wallingford Police Department.

Q And once you got to the Wallingford Police Department, did you have occasion to advise Mr. Barrett of his so-called Miranda rights?

A That is correct, sir. I did.

Q Can you identify the person whose name is William Barrett who you gave the so-called Miranda rights? Is he present in this courtroom?

A Yes, sir, he is. He is seated over there at the defense table.

Q Is he the person in front of whom I am standing?

A That is correct.

MR. LYONS: May the record indicate he has identified the defendant, your Honor?

THE COURT: It may so reflect.

Q Now, was anyone else present when you advised William Barrett of his so-called Miranda rights?

A The first time during the regular processing procedure, I was alone. Subsequently on two occasions, I was with two different police officers when they advised him of his constitutional rights.

Q Who were those police officers?

A The first case was Sergeant John Genovese. The second case was Detective Lieutenant Murt Howard.

Q Now, the first time that you advised Mr. Barrett of the so-called constitutional rights, did you use anything to assist you?

A Yes, sir. A standard court-issued rights form which is filled out and read to the defendant directly off the sheet and which he signs that. In fact, he was advised of his rights and he did understand them.

Q You used that form to advise him?

A That is correct.

Q Did you read from that form?

A Yes, I did.

Q And you then said you had him initial it or sign it?

A Sign it.

Q And did he do that in your presence?

A Yes, he did.

Q Do you know what you did with those forms? Do you send a copy to the clerk of the court?

A Yes, sir. A copy is attached right to the case itself. When we submit the entire processing package, it goes to our records examination and then the directed copy goes—

MR. LYONS: If there is no objection, I would inspect the clerk's file to see if that is, in fact, in there.

Rather than remove it as an exhibit, I would simply, if it is part of the clerk's file, I will ask the Court to take notice of it. I don't want to disassemble the clerk's file.

THE COURT: I understand.

MR. LYONS: If the Court pleases, if I might take the clerk's file and have the witness refer to it?

THE COURT: Surely.

Q Showing you a document in the clerk's file, do you recognize that, Officer Cameron?

A Yes.

Q How do you recognize it?

A It has my name on the bottom of it dated 10/24/80 and 6:12 in the morning.

Q And is there any other writing on there that you recognize?

A There is a signature on the bottom, of the defendant, William H. Barrett, which he signed it at the time.

Q In your presence?

A In my presence after I read him the notice of rights.

MR. LYONS: I would ask the Court to simply take judicial notice of what's in its own file.

THE COURT: Thank you.

Q Now, where was that done when you first read him his constitutional rights?

A In the processing room, in the patrol squad room in the basement of the Wallingford Police Department.

Q Now, sometime after that, did you again have occasion to advise him of his so-called Miranda rights?

A I did not, sir. But I was present when someone else did.

Q And who would that be?

A The next occasion he was advised of his rights was by Sergeant John Genovese in the Detective Division upstairs in the second floor of the Wallingford Police Department.

Q And at approximately what time did that occur in your presence?

A I cannot give you an exact time.

I would speculate that it was approximately one and a half to three quarters of an hour later, after that other form which I have just looked at, was signed.

Q And do you know whether anything was used to assist Sergeant Genovese in advising Mr. Barrett of his so-called constitutional rights?

A Yes, sir. A standard police pocket rights form, which are issued by our department to carry on duty in our duty briefcase for occasions such as this.

MR. LYONS: I would ask that this be marked for identification at this point.

THE COURT: It may be marked.

(Whereupon, State's Exhibit E for identification was marked—rights form.)

Q Showing you what has been marked as State's Exhibit E for identification, I will ask you to look at that and tell me whether or not you recognize it?

A Yes, sir. This is the rights card read to the defendant by Sergeant John Genovese in my presence, and my signature is on there. Sergeant Genovese's is on there, and the time 0630, the time that it was read is there.

Q That's military time?

A 0630 is military time. And at the bottom is dated 10/24/80 and signed again by the defendant, William Barrett.

Q Now, was that signed by the defendant, William Barret, in your presence?

A Yes.

Q And was it signed after the things on there were read to him?

A Yes, sir.

Q And then when did you put your hand on there?

A Immediately after he signed it, which, of course, was after it was read to him.

Q And you recognize the writing of Sergeant John Genovese, as well?

A Yes.

Q You are familiar with his signature?

A I work with him constantly and I am familiar with his signature.

MR. LYONS: The State will make a full offer, your Honor.

MR. SOLOMON: No objection.

THE COURT: It may be made a full exhibit.

MR. LYONS: Thank you.

(Whereupon, State's Exhibit E was admitted into evidence—rights card.)

Q Now approximately—what was the approximate time between the time that you read William Barrett his rights from the notice of rights form and you heard Sergeant Genovese read the so-called Miranda warnings from the card that has been referred to as State's Exhibit E?

A Again, I cannot be exact on the time, but I believe it was around a half hour.

Q Now, at the time that his rights were read to him, could you describe his physical appearance?

A He was somewhat disheveled. One of his hands was hurt. There was a gash on the back of his hand. It was swollen. He was a little upset over the whole incident as he had been arrested. He seemed alert. He carried on a normal conversation with me. I had no trouble understanding him and he indicated to me on several occasions that he had no trouble understanding what I had to say to him.

Q Have you ever dealt with the people under the influence of alcohol or drugs such that they are intoxicated?

A Yes.

Q Did he appear to be intoxicated, to you, under alcohol or drugs?

A In no way whatsoever.

Q Did he appear to understand your questions regarding the so-called Miranda rights?

A Completely. I asked him several times during my administration of those rights, if, in fact, he understood them; if there were points he wanted me to clarify, and he indicated to me, no, he understood everything fairly well.

Q Was his speech coherent or incoherent?

A Normal.

Q Coherent?

A Yes. I could understand everything he said.

Q Did he respond to you and say he wanted his attorney present?

MR. SOLOMON: Repeat it, please.

Q Did he respond to you when you asked or advised that he could have his attorney present with him?

A During the processing after he was advised of his Miranda rights including his right to have an attorney present during any questioning, I did ask him if he wished to make any statements.

He indicated to me that he would not give the police any written statements but he had no problem in talking about the incident.

Q And without telling me the substance of any conversations, at some point did he, in fact, talk about the incident?

A Yes, he did.

Q And during the course of talking about that incident, did he ever invoke his right to remain silent?

A No, sir. He did not.

Q And, again, this statement was taken, or this conversation with the defendant, was had between—strike that. Withdrawn.

This conversation with the defendant was had in the presence of you and Sergeant John Genovese?

A Yes, sir.

Q In the Wallingford Police Department?

A Correct. In the Detective Division.

Q In an office?

A In an office.

Q Whose office?

A Lieutenant Murt Howard's; the Detective Division's commander.

Q Was he in the office at the time of this statement?

A Not at the time of this interview.

Q And was the door to his office—I assume there was a door?

A Yes.

Q Was the door open or closed?

A It was completely sealed off.

Q There were three of you in that room?

A Yes, sir.

Q Did you make any promises to William Barrett; promising him anything in return for any statement that he might make to you?

A No, sir.

Q Did you make any threats to William Barrett, threatening him to make a statement to you?

A No, sir.

Q Did you use any physical actions to coerce or force him into making a statement to you?

A No, sir.

Q He never invoked his right to remain silent?

A Never.

Q Did he ever ask to stop; that he did not want to go any further without his attorney present?

A No, sir.

Q To the best of your knowledge, from your perspective, was the statement freely and voluntarily given?

A Most definitely.

Q Now, was there some time after that so-called statement given in Lieutenant Murt Howard's office, that a second statement was taken?

A Yes, sir.

Q And were you present during the course of that?

A Yes, sir, I was.

Q And were you present—withdrawn.

Who was the statement by primarily?

A It was a verbal statement. Lieutenant Murt Howard, the head of the Detective Division, was essentially conducting the statement-taking, if you will, and I was present, also.

Q You were present during that?

A That is correct.

Q And how long after that first so-called statement was taken, was the second so-called statement taken?

A I believe it was approximately two hours, but I cannot be positive on the time.

Q You cannot be positive of the time, Officer?

A On the rights card which was marked for identification, the time is 0630. I believe the other interview commenced shortly after 0800 in the morning but the exact time or approximately 0800, one side or the other, a few minutes, I cannot be exactly sure.

Q All right.

MR. LYONS: I have no further questions.

CROSS-EXAMINATION BY MR. SOLOMON:

Q Hi, Officer.

A Hello.

Q When you picked Mr. Barrett up in New Haven, were you with Detective Ginorio?

A Yes, sir.

Q Okay. And was that pick-up accomplished at the New Haven Police Department?

A Yes, sir.

Q And did you indicate that that took place about 5:00 a.m.?

A We arrived there substantially before that. However, we left approximately 5:00 a.m. in the morning.

Q And arrived back to Wallingford about 5:30 or so?

A 5:30, quarter to 6:00; somewhere in that area.

Q When you arrived at the New Haven police station, when did you personally see the defendant, William Barrett, for the first time?

A Approximately half an hour after we arrived after finding out the details of the incident and going about whatever had to be done.

Q Can you estimate for us approximately what time that was, Officer?

A I would say it was approximately 0300 hours.

Q Approximately 3:00 a.m.?

A 3:00 a.m. in the morning.

Q Did you notice, when you first saw William Barrett, did you notice his condition at that time?

A Yes, sir. I did.

Q Could you describe it for us, please?

A It was basically the same as I have described at the Wallingford police station; disheveled, upset over what had happened.

Again, he did have a cut on the back of his hand. It was slightly swollen. The clothing was somewhat disheveled. He appeared to be awake and alert.

Q How about his face? Did you notice anything about the condition of his face?

A I don't recall offhand.

Q When you returned to the Wallingford Police Department, were mug shots taken of Mr. Barrett?

A Yes, sir. As a normal processing procedure.

Q Have you received my subpoena yet to bring those mug shots into court?

A No, sir. I have not.

Q Are they available to your knowledge?

A They must be, sir.

Q Do you participate in the taking of the mug shots as part of the booking and processing?

A Yes, sir. The officer assigned to the booking actually does take those shots?

Q Was that you?

A Yes, sir. On that night, I did.

Q How many mug shots were taken?

A There was a combination of two combined into one on a certain type of camera. You can take a standup frontal and a profile shot.

Q Profile shot?

A Yes, sir.

Q Was this done in this case?

A Yes, it was.

Q When you returned to Wallingford with the defendant, with the accused, with the suspect, was he taken to the basement area of the Wallingford Police Department?

A I don't recall whether he was immediately taken there or whether a stop was made in the detention holding area upstairs until things could be sorted out as to exactly what charges applied. I don't recall if that happened. That is the normal part of the procedure but in this case, I don't recall.

Q I see. The first advising of the Miranda warnings, did that take place at the Wallingford Police Department or did that take place at New Haven?

A I advised him of his rights at the Wallingford Police Department.

Q And that was the first time that you had made that advisement?

A Yes, sir.

Q And you were alone when you made that advisement of rights?

A That is correct, sir.

Q Could you tell us where you were within the Wallingford police station when you advised him the first time?

A Yes, sir. In the patrol squad room booking area in the basement of the Wallingford Police Department.

Q Was that the time that you indicated to Attorney Lyons that you were involved with the rights form?

A That is correct, sir.

Q The same form that is sent ultimately to the court?

A That is correct, sir.

Q Which is contained now in the State—in the clerk's file?

A Yes, sir.

Q Which you have already looked at?

A Yes, sir.

Q Was Mr. Barrett's condition at that time in the patrol squad detention—maybe I am confusing you—in

the patrol squad room, was his condition in your judgment, Officer Cameron, any different than what it was perhaps some two or three hours earlier when you first saw him in New Haven?

A I did not see any difference, sir.

Q Would you say it was the same?

A Yes.

Q Was that accomplished at 6:12 a.m.?

A What's "that", sir?

Q The rights form procedure.

A I believe that was the time on it.

Q Noted on the rights form?

A That is correct, sir.

Q Was it after that that you interviewed Mr. Barrett in the presence of Sergeant Genovese?

A It was some time after that; yes, sir.

Q Did you indicate that—I see it here now; approximately one half to three quarters of an hour later?

A Somewhere in that time frame. After seeing the rights form filled out by Sergeant Genovese, signed by myself and the defendant, I believe the time on that was 0630, which would have made it under a half hour.

Q From 6:12 to 6:30?

A That is correct, sir.

Q How did it occur that a decision was made, Officer Cameron, to attempt to interview the accused, Mr. Barrett?

A After reading the court form, rights form, and having him sign it at 6:12, I asked him if there was a willingness on his part to invoke any of those rights or if he would like to make any kind of statement to the police regarding the incident with which he was charged.

Q What was his response?

A He would give no written statement to the police; nothing in writing; however, he would be more than happy to talk about it. He had no problem with that.

Q "More than happy," are those his words?

A No. I believe his exact words were that he had no problem with that.

Q But he refused to give you a written statement until his attorney arrived?

A That's what he said, sir.

Q Do you know of your own knowledge, Officer Cameron, if Mr. Barrett made an attempt to contact his attorney?

A He was given the opportunity to make several telephone calls and he did make more than one. Who he made those calls to, I did not pay any attention.

Q Was that done outside of your presence?

A No, I was in the room, in the squad room, the same room where the rights form was signed. There is a telephone there that prisoners are allowed to use.

Q But as to who he called, you were unaware?

A I have no idea, sir.

Q Was it then that the interview or the conversation ensued in Lieutenant Murt Howard's office where you indicated you were present and Sergeant Genovese was present?

A Subsequent to the original rights form downstairs, yes, he was taken upstairs to the Detective Division; Lieutenant Howard's office and that conversation did ensue.

Q Did you accompany Mr. Barrett upstairs to the Lieutenant's office?

A Yes, I did.

Q Was Sergeant Genovese with you at that time, or he was already upstairs?

A I believe he was already upstairs.

Q Before the conversation ensued, Officer Cameron, was it then the rights card process came into play?

A Yes.

Q And you indicated to Attorney Lyons that you read the card to Mr. Barrett?

A I did not, sir.

Q Who did?

A Sergeant Genovese did.

Q I am sorry; and you were present while this was going on?

A Yes, sir.

Q Were you closeted in Lieutenant Murt Howard's office at this time?

A Yes, sir.

Q Was the door closed?

A Yes, sir, it was.

Q And you indicated that the card was signed by Mr. Barrett?

A That is correct, sir.

Q And it was then signed by you and Sergeant Genovese?

A That is correct.

Q And dated?

A Yes, sir. I am sorry, sir; that is incorrect. Mr. Barrett dated the card when he signed it.

Q At your request or Sergeant Genovese's request?

A I don't recall. It is a standard form. There is a date and signature area.

Q I see. Where was Lieutenant Murt Howard, if you know, when this interview, when this conversation was taking place?

A I don't know exactly. It was before his normal tour of duty began.

Q What time does he get on?

A Approximately eight o'clock he arrives.

Q And this would have been approximately 6:30?

A Between 6:30 and quarter to 7:00.

Q Was it a question and answer process or was it a narrative on the part of Mr. Barrett?

A We allowed him to narrate what he wanted to tell us. We interjected some questions.

Q As he was going along?

A As he was going along.

Q Did he answer your questions?

A Not all of them.

Q Did he refuse to answer some of your questions?

A No, he did not. He just simply ignored them and continued on with his narrating.

Q I see. The fact that he refused to answer some of your questions, Officer Cameron, does that in your judgment indicate an unwillingness on the part of Mr. Barrett to continue with the conversation?

A None whatsoever. When he would not answer a question that was directed to him, he would continue on with the narrative as if we had not even asked the question.

Q Did that satisfy you and Sergeant Genovese?

A Yes, it did.

Q Was there more than one question that was assumed to be—that Mr. Barrett—refused to answer as put to him by either you or Sergeant Genovese?

A I don't recall exactly if there was one or more.

Q So, essentially, Officer Cameron, it was a narrative at this time?

A Yes, sir.

Q As far as this particular interview—

A That is correct.

Q —did Mr. Barrett indicate to you during this conversation or this narrative, Officer Cameron, that—did he ask you, "Is this just between you and I"?

A I don't ever recall that, sir.

Q During the time that Mr. Barrett was first picked up by you and transported from New Haven to Wallingford during the booking procedure involving the taking of mug shots and the procedures and during this initial interview, Officer Cameron, did Mr. Barrett ever request of you that he was seeking or he would like medical attention?

A He indicated his hand, I believe it was his right hand, but I am not positive, the one that had a gash on the back of it, was somewhat of a bother to him. It was bothering him.

We did ask him did it need medical attention or how he felt about it. He said it was bothering him some; however, it was not a great problem to him.

Q Did he use the words: it was not a great problem, that series of words?

A I don't recall exactly what he said.

Q In your judgment was Mr. Barrett in a fit condition considering the circumstances, to respond in a narrative to you and Sergeant Genovese at that time?

A Yes, sir, he was.

Q And this was a judgment that you made?

A Yes, sir. It was also based on the fact that he seemed willing to narrate what he—supposedly, was his side, his version of the story.

Q I see. After this session was concluded, what happened next, Officer Cameron?

A I don't recall exactly what happened in the period between the interview with Sergeant Genovese and a second interview which occurred approximately at eight o'clock or thereabouts with Lieutenant Howard.

Q Did you stay with it—did you stay with Mr. Barrett during that interim period or were you involved in other duties at that time?

A I honestly can't remember exactly what transpired.

Q Okay. What prompted the second session or interview with Lieutenant Howard?

A During the first interview with Sergeant Genovese, approximately given at 630 hours, a tape recorder was set up in Lieutenant Howard's office to tape-record this verbal session with the defendant. However, the tape recorder was malfunctioning and upon checking it, after completion of that first interview, Sergeant Genovese found that there had been no recording, in fact, made. The second attempt with Lieutenant Howard was again with the same tape recorder and attempted to tape-record the defendant.

Q Okay. Let me backtrack a second if I might, Officer Cameron.

You indicated that the tape recorder was in Lieutenant Howard's office while the first interview was going on?

A That is correct.

Q Was the defendant, William Barrett, aware that the narrative was being recorded?

A I don't know, sir. During the time I was present, he was not told.

Q He was not told?

A He was not told by myself or Sergeant Genovese.

Q Was the tape recorder in such a position that it would not have been observed readily by Mr. Barrett?

A I honestly don't recall whether it was at that time, during the first interview.

Q But you do state it was in Lieutenant Howard's office?

A Yes, it was.

Q So you're saying that the malfunctioning of the tape recorder device prompted the second interview of Mr. Barrett where you were involved and Lieutenant Howard was involved?

A That is correct.

Q Where did that interview take place?

A In the same office.

Q Same office?

A Correct.

Q And, again, who was present?

A Lieutenant Howard and the defendant and myself.

Q Was it foreclosed in Lieutenant Howard's office?

A Yes.

Q So there was just the three of you there?

A That is correct, sir.

Q Was the same tape recorder used this time around?

A Yes, it was, sir.

Q Was Mr. Barrett aware that the second interview was being recorded?

A I don't know, sir. I did not tell him. Lieutenant Howard did not, in my presence, tell him.

Q And, again, the tape recording device would not have been readily available to the defendant?

A It was on Lieutenant—

Q Would it have been readily observable to the defendant?

A From my point of view, I knew it was there.

Q You don't recall, or you have said you did not tell Mr. Barrett it was being recorded?

A That is correct.

Q Was there any difference that you noted in Mr. Barrett's condition from the time of the first interview at

approximately 6:30 to the time of the second interview which you indicated was approximately eight o'clock, in your judgment, Officer Cameron?

A No, sir. He was still quite upset over the whole incident; the fact that he had been arrested. He was quite upset again. He was more than willing to narrate his version of what had happened.

Q Was there any conversation or request made by the defendant, Mr. Barrett, or was there any offers made by either you or Lieutenant Murt Howart to have his hand looked after before the second interview commenced?

A Again, I am not positive about what transpired between the two interviews.

I did take both Mr. Barrett and another subject who was arrested with him to Veterans Memorial Hospital. I do not remember that exact sequence of events; whether it was between interviews, after the interviews or whether it was—it was in that time period.

Q I see. But did there come a time, when you are not sure, that the suspects were transported to Veterans Memorial Hospital?

A Yes, sir. We were worried about the person arrested with him who had an injury to his leg, who finally did say he wanted to go to the hospital and have it looked at.

Q But as you stated, both subjects were transported?

A Yes, sir.

Q To your knowledge, were they looked at and treated by hospital personnel at Veterans Memorial?

A Yes, sir. I stood by in the emergency room area while they were treated.

Q What time did the first interview end?

A I cannot be specific on the time.

Q Roughly?

A Approximately seven o'clock.

Q Seven?

A I would say so, sir.

Q Commenced about 6:30?

A Shortly thereafter, yes, sir.

Q So the narratives took, would you say, approximately a half hour?

A Yes, sir.

Q You don't recall after seven o'clock whether the transport to the hospital occurred then or whether it occurred after the second interview?

A No, sir, I am sorry. I don't.

Q Did the second interview last as long or was it shorter than the first one?

A I believe it was somewhat shorter but not that much.

Q Who was involved in the advising of rights for interview number two?

A Lieutenant Howard had the same card that Sergeant Genovese did. He asked me if, in fact, the defendant had been advised of his rights. I stated he did. Lieutenant Howard went ahead and read this card to him, again, another set of those Miranda rights.

Q The small card?

A That is correct, sir.

Q Do you have those cards, Officer Cameron?

A I don't have one on my person at this time. I keep one in my uniform.

Q It is standard procedure?

A That is correct.

Q In this situation, do you have the second set of cards or the second card that was signed by the defendant?

A I do not. I believe Lieutenant Howard has it. He keeps it in his—

Q I mean the actual card in this case that was signed by Mr. Barrett. Do you know where that is?

A No. Lieutenant Howard retained the position of that. I don't know what he did with it after that time.

Q I see. And so that involved the reading of the terminology of the card?

A Yes, sir.

Q The asking if the defendant understands?

A That is correct, sir.

Q And did Mr. Barrett indicate that he understood?

A Yes, sir, he did.

Q And did he subsequently sign the card?

A No. In this case Lieutenant Howard who was conducting, basically, conducting the interview, felt that since there was a signed card from just a few minutes actually, that the reading of the card would be sufficient.

Q So there was no signing by Mr. Barrett of an additional rights card?

A No, sir.

Q The second interview terminated, did you indicate, sometime after eight o'clock?

A The second interview began sometime around eight o'clock.

Q When did it terminate, Officer?

A It terminated, I believe, it was slightly shorter than the first one. Therefore, it would have been around 8:20, 8:25.

Q I see. Was it after the second—withdrawn.

Was the format of the second interview essentially the same as the first interview?

A Yes, sir.

Q And the narrative?

A Yes, sir.

Q Were there questions proposed by either you or Lieutenant Murt Howard during the second interview?

A There were questions that were not really questions but clarifications in his narrative. . .

In his narrative, the defendant would say something and which neither of us was — more or less a little bit out of context or the meaning was not clear to us and we would ask him what was that.

Q You did impose something for clarification purposes?

A I did not. I believe there were one or two questions during the course of this interview similar to the first one, but I don't recall how many or exactly what they were.

Q Were they asked by Lieutenant Howard?

A I believe so.

Q Did you remain silent during that entire second interview process?

A No, sir. Lieutenant Howard had just come to work and was not completely familiar with every minute detail of the case. And he looked to me that all there was had been covered and the narrative was essentially what was given to us the first time. The two narratives were the same.

Q Did you repeat, before Mr. Barrett completed his second narrative, did you repeat the first narratives to Lieutenant Murt Howard to indicate to him what had been earlier discussed?

A No, sir.

Q Did you carry the ball, so to speak, during the second interview because you were more familiar with the situation?

A No, sir. I would not say that.

Q It was joint effort?

A I think that would be fairer to say.

Q Was there any resistance on the part of Mr. Barrett when an attempt was made by either you or Lieutenant Howard to clarify a particular point in the course of the narratives?

A No, sir. None whatsoever.

Q Was it subsequently determined that the tape recorder had malfunctioned again after the second interview?

A Unfortunately, yes, sir.

Q Was it then, Officer Cameron, that you prepared your report?

A Yes, sir. After all that, and I am not positive when we went to the hospital, but after that was all done and every procedure was completed, et cetera, I did my report.

Q After the second interview, was Mr. Barrett returned to the detention area or was he brought somewhere else?

A He was brought ultimately to the detention area to await ten o'clock to bring him to court for arraignment.

Q Would that have been at GA-7 in Meriden?

A GA-7 in Meriden, yes, sir.

Q Did you take part in the transport of Mr. Barrett?

A No, sir.

Q Do you know who did that?

A It would have been the court liaison officer at that time.

Q Was that Lieutenant Jsupin?

A Probably, it was. He has since retired. I am not sure of the exact date.

Q That would be a matter of record, would it not?

A Yes, sir.

Q Just one more point, Officer Cameron.

The second interview, then, it was only a reading of the rights card by Lieutenant Howard to Mr. Barrett?

A That is correct, sir.

Q There was no signing of that rights card by Mr. Barrett?

A That is correct.

Q You already had a rights card. You already had a rights form executed by Mr. Barrett from the prior to the initial interview?

A That is correct.

MR. SOLOMON: May I have one quick moment, your Honor?

THE COURT: Indeed.

Q Do you recall, Officer Cameron, if Mr. Barrett ever indicated to you what had happened to him in New Haven?

A I don't recall whether it was narrated to me by him, by Mr. Barrett or by members of the New Haven Police Department. I do recall that there was a story of something that had occurred there, a bar fight. I don't recall if Mr.

Barrett told me or members of the New Haven Police Department told me.

Q Did you have knowledge that Mr. Barrett was a party to that in that bar fight?

A Again, yes. I don't recall who told me but there had been an altercation between him and evidently from the story that was told to me second-hand, the brothers of the victim.

MR. LYONS: I am going to object at this point, your Honor. I don't know what its relevance is. It is a good fishing expedition for discovery but as far as relevance is concerned, I don't know what the relevance is.

THE COURT: I will allow the question. I think I see where counsel is going with it.

MR. SOLOMON: Thank you, your Honor.

Q Did you finish your answer?

A No, sir. He was involved in a bar fight with the brothers of the victim in this incident.

Q You have no further details as to what happened?

A As far as the exact things that happened, no, sir, I don't.

MR. SOLOMON: Okay. Thank you, Officer.

MR. LYONS: I have no questions of this officer.

* * *

B. Transcript Of Testimony Of Officer Murt Howard—Partial. (Tr. pp. 482-520—Suppression Hearing)

DETECTIVE LIEUTENANT MURT HOWARD, 350 Center Street, Wallingford, Connecticut, first having been duly sworn, was examined and testified on his oath as follows:

DIRECT EXAMINATION BY MR. LYONS:

Q Lieutenant Howard, you are employed by the Wallingford Police Department?

A Yes.

Q How long have you been employed by the Wallingford Police Department?

A Since March of 1963; March 17, 1963.

Q How long have you been employed in the capacity of lieutenant in the Wallingford Police Department?

A Since 1976 I have been assigned to the Detective Division. I was assigned to the Patrol Division for one year prior to being transferred to the Detective Division.

Q Were you employed by the Wallingford Police Department as an officer on October 24th of 1980?

A Yes.

Q And do you recall the shift you were working on that particular day?

A 8:00 to 4:00.

Q Do you recall at about what time you got to work on that date?

A Approximately quarter to 8:00.

Q Now, on that date, after you got to work, did you have occasion to meet with an individual by the name of William Barrett?

A Yes, sir.

Q And is that person present in this courtroom?

A Yes, he is.

Q And could you identify him, please?

A He is the gentleman in the blue suit.

MR. LYONS: May the record reflect he is pointing to the defendant in this case?

THE COURT: It may so reflect.

Q And under what circumstances did you meet Mr. Barrett, if you would?

A Upon coming into the Detective Bureau, Sergeant John Genovese was there and he had approached me and advised me that Mr. Barrett was there, and he was cooperating.

He asked if I could interview him, gave me a brief rundown as to what transpired. He told me he attempted to record that conversation and it was not recorded. As a result of that, I told him that I would speak to him. Mr. Barrett was with Officer—

MR. SOLOMON: Your Honor, could we have question and answer, please, rather than a narrative? I am finding it a little hard to take everything down here.

THE COURT: Very well.

Q At some point, did you speak to Mr. Barrett?

A Yes, sir.

Q Did you advise him of his so-called constitutional rights?

A Yes, sir, I did.

Q Did you use anything to assist you in that?

A I read it from the Miranda warning card.

Q This Miranda warning card, is that something that you keep on your person?

A Yes, I do.

Q And where do you keep it?

A My billfold.

Q And do you have one on you at the present time?

A Yes, sir. I do.

Q And did you actually read him his so-called Miranda rights from that card?

A Yes, I did.

Q Could you demonstrate the manner in which you advised the defendant of his so-called Miranda rights?

A Well, I had read from the card his rights to him. I asked him if he had understood those rights. I asked him how far, what his education was. He said it was twelfth grade. He

got a twelfth grade education. I asked him if Officer Cameron had given him his rights previous to this. He stated that he did.

Q The other time that you advised him of his so-called Miranda rights, did you have an opportunity to observe his physical appearance?

A Yes, sir.

Q And could you describe your observations?

A His hand, he had a swelling on his right hand, I believe, it was. And there was a sort of scratch mark on it. And his one eye, I forget which one it is at this time, had some discoloration.

MR. LYONS: I would ask that these five photographs be marked as exhibits for suppression hearing only.

THE COURT: They may be marked.

MR. SOLOMON: Did you show them to Lieutenant Howard?

MR. LYONS: No. They are being marked for identification.

(Whereupon, State's Exhibits, F, G, H, I and J were marked for identification only.)

Q Lieutenant, showing you what has been marked as State's Exhibits F, G, H, I and J. I would ask you to examine those.

(Whereupon, the exhibits were handed to the witness.)

Q Do you recognize each of those photographs, Lieutenant?

A I recognize these as being Mr. Barrett. I do.

Q Now, are these photos a fair and accurate representation of what Mr. Barrett's physical appearance was like as far as the photos go, of course,—

A Yes.

Q —on the morning of October 24th of 1980?

A Yes.

Q And that would be at about the time that you saw him at about quarter to 8:00 on the morning of October 24th of 1980?

A Yes. As best as I can remember.

MR. LYONS: I would offer them at this point as exhibits for purposes of the suppression hearing, only.

MR. SOLOMON: No objection, your Honor.

THE COURT: They may be marked full exhibits.

(Whereupon, State's Exhibits F, G, H, I and J were admitted into evidence.)

MR. SOLOMON: Have you seen the photographs, your Honor?

THE COURT: No.

Q Officer, having reference to State's Exhibit F, can you tell us what is that photograph, please?

A There is a slight scratch-type mark on the top of the hand and there is some swelling on the hand in comparison with the other hand.

Q And that's William Barrett's hand?

A Yes, sir.

Q Was that readily observable to you on October 24th of 1980?

A Yes, sir. It was.

Q And exhibits—we're referring to State's Exhibit I, could you explain what that is, for the record?

A It is another picture of the hand. And on this picture, the other hand looks like it is swollen a little bit. But I just recall the one hand that was swollen.

Q Would that be the right or the left hand?

A That would be this hand, the right hand.

Q And would you explain what you see in State's Exhibit J?

A The photograph is a photograph of his hand and there appears to be some swelling on this hand.

Q Which hand is that?

A That would be the left hand.

Q And referring to State's Exhibit H, would you describe what's in that photo?

A It is a standup, side view of Mr. Barrett, his clothing which is a leather jacket, dark trousers and white shirt.

Q Anything strike you with respect to his physical appearance in that particular photo?

A It is not that clear but it does tend to show what appears to be a little discoloration.

Q Where would that be?

A Under the eye.

Q Now, in examining State's Exhibit G a little bit closer, would you describe for the record what that photograph is?

A This is a front view, standup, and this one is also the same thing, standup photograph, front view, and it appears, the left eye, appears to be a discoloration.

Q Is there also swelling under his left eye?

A It appears that way, yes, sir.

Q Was that visible to you on that particular day when you—

A I just recall the discoloration. The amount of swelling, I don't recall at this point.

Q The amount you don't recall?

A No.

Q Does the picture help refresh your recollection in any way?

A As best as I can state it.

Q Now, have you ever dealt with people who are under the obvious influence of alcohol or other intoxicating substances?

A Yes, sir.

Q And in your opinion, did the defendant, William Barrett, appear to be intoxicated by either alcohol, drugs or other intoxicating substances?

A No, sir.

Q Did he appear to understand your reading to him of his rights and any questions regarding his rights?

A I asked him if he understood his rights.

Q And what did he say?

A He stated that he did.

Q And was his speech coherent during the reading of the rights?

A Yes.

MR. SOLOMON: Excuse me. Whose reading of the rights?

Q While you were reading him his rights and he replied to you, was his speech coherent?

A Yes.

Q And when you asked him whether he wanted an attorney present, did he respond?

A He said that he was willing to talk about it verbally but he did not want to put anything in writing until his attorney came. That was all he said.

Q Now, at some point, I assume he did answer your questions or make a statement?

A Yes, he did.

Q And during that statement or series of answering questions, did he ever invoke his right to remain silent?

A No, sir.

Q Did you coerce him in any way to answering questions or making statements with any threats or bodily actions?

A No, sir, we did not.

Q Did you promise him anything in return for answering questions or making a statement?

A No, sir.

Q And he did make some statements and answered some questions in response to your questions; correct?

A Yes, sir. He did.

Q To the best of your knowledge, were the responses that he gave to your questions and any statements he made freely and voluntarily given?

A Yes, they were.

Q And did he ever refuse to answer any questions at any time?

A It is not a point of refusing to answer. He had, basically, related his story as he had to say. As I would ask a question, he would answer it. But, basically, he continued to tell his story. He did answer almost all the questions, and I can give you an example.

Q Let me ask the question this way. Are you trying to say that he might not have said something responsive to the question; he continued talking but he never refused to talk?

A No, sir.

Q Now, again, with respect to his physical appearance, did you have occasion to ask him how he might have gotten that discoloration and swelling under his left eye?

A I asked him what happened. He said that there had been a problem in New Haven.

MR. SOLOMON: A problem, did you say?

MR. LYONS: Yes.

MR. HOWARD: Yes. I did not go into the specifics. I had—Sergeant Genovese had stated there had been a fight and I did not ask him what the specifics were as far as the fight goes.

Q Did he give you any indication who that fight was with as opposed to police officers versus people?

A It was families, was my understanding—

Q Not police officers?

A —of Mary Ann Jones.

Q Not police officers. And with respect to the swelling and mark on his hand or marks on his hand, did you ask him how it came about that he got that on his hand?

A I did not go into any details as to what happened to his hand with him, other than there was a fight with the family. That's what he said.

Q Something to do with other civilians and not police officers in New Haven or Wallingford?

A That is correct.

Q Officer, I am sure you know what was on your card but, unfortunately, the record does not.

Could you please tell us exactly how you advised the defendant of his rights?

A Would you like me to get my card?

Q Do it right now just the same way you did it that morning, on October 24, 1980. Just so the record is clear with respect to what you said to the defendant.

A I always carry two cards; one has a dying declaration on it, which on the back of the rights card I have another card. I always have one or two others with me that I carry on my person at all times.

MR. SOLOMON: Your Honor, excuse me; is the representation being made that either one of those cards was the exact card that Lieutenant Howard read from on October 24, 1980?

MR. LYONS: No.

MR. SOLOMON: Maybe it requires a little more foundation, your Honor.

I will object because I don't feel that the reading of these cards have any relevance, your Honor, unless it can be shown that this card was the same card he read to him on October 24, 1980, or unless there is going to be testimony that all the cards are identical. I have a problem with that, frankly, your Honor.

THE COURT: I believe that he has already given that indication.

MR. LYONS: I will ask the question.

THE COURT: But not in those specific words.

Why don't you ask him?

Q Is the card that you're about to read from, identical in terms of what's on it with the card that you used to advise William Barrett in the so-called Miranda rights on the morning of October 24, 1980?

A Yes. Because we have a series of these that came in a box.

Q While it was not the same physical piece of paper, it contained the same so-called Miranda rights on it?

A Yes.

Q With that, could you please demonstrate for the Judge exactly how you advised the defendant of his rights on the morning of October 24, 1980?

A It states, "The constitution requires that I inform you of your rights. You have the right to remain silent. If you talk to any police officers, anything you say can and will be used against you in court." I asked him if he understood what that meant.

Q And what did he say?

A He said he did.

Q Right?

A And I told him, "You have a right to consult with your lawyer before you are questioned and you may have him with you during questioning."

And I asked if he understood that. "If you cannot afford a lawyer, one will be appointed to you if you wish before any

questions. If you wish to answer any questions, you have a right to stop answering at any time. And you may stop answering questions at any time if you wish to talk to a lawyer. You may have him with you during any further questioning."

Q Now, those are the rights that you read to the defendant that morning?

A Yes.

Q Now, did you ask him whether or not he understood those rights?

A Yes, I did.

Q What did he say?

A He said he did.

MR. LYONS: I have no further questions.

Thank you very much.

CROSS-EXAMINATION BY MR. SOLOMON:

Q Good morning, Lieutenant Howard.

A Good morning, sir.

Q The interview process that occurred when you were involved, Lieutenant, with—did that take place—withdrawn.

Where did the second interview occur?

A In my office in the Detective Division.

Q Was anyone else present?

A Yes, there was.

Q Who was present?

A Officer Cameron.

Q And?

A Myself.

Q Anyone else?

A No, sir.

Q Was it your understanding, Lieutenant Howard, that the first interview of the defendant, William Barrett, also took place in your office?

A Yes, sir. It was.

Q And was the sole reason for the second interview the fact that Sergeant Genovese indicated that the tape recording had malfunctioned?

A Yes, that is correct.

Q So if there had been an effective recordation of the first interview, you would not have talked to the defendant; is that correct?

A That is a strong possibility, yes, sir.

Q How much time elapsed between when you first arrived at the Wallingford police station and the time you were actually in your office talking with the defendant, William Barrett?

A I would probably say maybe, maximum time would be 15 minutes.

Q Fifteen minutes?

A Approximately 15 minutes.

Q You arrived at work, I think you indicated in response to Attorney Lyons' question, about 7:45?

A Approximately, yes, sir.

Q And it was Sergeant Genovese that filled you in on what was going on?

A Yes, sir, he did, because he had called me earlier in the evening at home requesting a detective as a result of the investigation. And when I came in, he explained it to me.

Q Who was the investigating officer assigned to this case?

A Detective Miranda and Officer Cameron were assigned.

Q And Detective Miranda is actually Detective, or was Detective Ginorio?

A Was Detective Ginorio, yes, sir.

Q She is married now?

A Yes, sir.

Q You were not present, were you not, during the picture-taking procedure?

A No, sir.

Q I make specific reference to the five photographs that were shown you moments ago. That was accomplished by Sergeant Genovese?

A I don't recall who specifically took those photos. I really cannot answer that.

Q Would there be a clue on the photo, itself, as to who took them?

A No. The person who took them is aware of who took those photos. On the back it would have the name of the officer.

Q Would that be the person who took the photographs?

A Yes, sir. It would be.

Q Would you just look at these and see if there is a clue as to that?

A Yes. All of these indicate Sergeant Genovese, yes.

Q Did you know, Lieutenant Howard, of the existence of these photographs before this morning?

A I have not seen those photos; no, I have not.

Q At all?

A No, sir.

Q They were part of the booking process and the procedures at the Wallingford Police Department when the two suspects were there on October 24, 1980?

A The film, itself?

Q The taking of these particular photographs.

A Yes, they would be part of the case.

Q And subsequently placed in the Wallingford Police Department file?

A It would have been placed in the file, yes, sir.

Q Do you recall—and this is important—do you recall the condition of Mr. Barrett at the time that you questioned him on October 24, 1980, or is your recollection of his condition refreshed now by these photographs, Lieutenant?

MR. LYONS: I am going to object to that, your Honor. It could be both.

THE COURT: Let him answer it.

MR. SOLOMON: I think the lieutenant was going to answer. I am not trying to suggest one thing or another.

THE COURT: I think if that is the situation, the witness can testify to that.

Q Can you answer that?

A It is a combination of both.

Q Your own recollection plus a refreshing through an examination of these photographs?

A Reconfirming.

Q Your observations then?

A Yes, sir.

Q And is it fair to say that your recollection of Mr. Barrett's condition is reinforced by your observations of these photographs at this time?

A Yes.

Q You are not privy, Lieutenant Howard, to the earlier procedures at the station when the suspects were first transported there and you were not privy to the first interview that occurred at the Wallingford Police Department?

A No, sir.

Q Your involvement was solely a second interview of the accused in the company of Officer Cameron?

A Yes, sir.

Q When you were in the room talking to the defendant, were his responses, Lieutenant Howard, by way of a narrative or was it more a question and answer situation?

A I asked him if he would tell me what happened, and he began to explain what transpired. And there were times when I did ask him questions, yes.

Q What was the reason that you interrupted the narratives, so to speak, to ask questions?

A Well, the reason for it, I wanted to try to get a few things in perspective and to be more specific.

Q Did you have the personal benefit at that time of any other documentation furnished you by any member of the Wallingford Police Department to assist you in your interview of Mr. Barrett?

A No, I did not.

Q Did you have any statements that might have been taken earlier in the evening to assist you in the questioning of Mr. Barrett?

A No, I did not.

Q Either from the complainant or from the defendant, himself?

A No, I had nothing.

Q Did you have the benefit of Sergeant Genovese's notes, if there was such a thing, to assist you in the questioning of Mr. Barrett?

A The only thing I had was the verbal story from John Genovese; Sergeant Genovese.

Q Which was then in your mind?

A Yes.

Q Okay. Nothing written in front of you?

A No. Nothing.

Q So based on what Sergeant Genovese had told you, prior to your commencement of the interview, this assisted you in your questioning of the defendant, William Barrett?

A Yes. As well as his narrative.

Q During the interview of Mr. Barrett, what was Officer Cameron doing?

A He was standing in the office assisting. It is a small office. Our facilities are quite small.

Q Was he participating in the questioning procedure, if you can recall, Lieutenant Howard?

A Yes. Pete did ask him a question or two. And towards the end, I had asked Pete if there was anything else, maybe he would like to ask, and he said there were a few things. But exactly what he had asked him, I really don't recall specifically.

Q Would you say it is safe to say that you carried the ball pretty much yourself?

A Well, I would say basically Mr. Barrett carried the ball. I had asked him questions and Officer Cameron had asked him a few questions, also.

Q When you posed your questions to Mr. Barrett, either you or Officer Cameron, were they answered by Mr. Barrett?

A I would say that the percentages of time they were; not all the time. I did not get specific answers all the time.

Q There were some questions that were not answered by the defendant, is that correct?

A It was not that they were not answered; it is that he continued on with his story.

Q Not in response to your questions?

A If I can give you an example.

Q I'd rather not get into the contents, Lieutenant. I think you understand why.

Did the narrative then go off the track to your question or was it in line by way of an explanation to your questioning?

A It would be, he would explain what he meant by what he said.

Q I see.

A Okay. He would explain what his meaning was as he gives his narrative.

Q I see.

A And I probably asked maybe one or two specific questions that I did not understand and wanted to clarify; or maybe three, somewhere along that line.

Q Did Officer Cameron ask a like number of questions?

A Yes, he did.

Q Were answers given to Officer Cameron's questions, as best you can recall?

A Yes. Mr. Barrett was cooperative.

Q Did there come a time during the questioning process and the narrative process of the interview that you were involved in, Lieutenant Howard, that Mr. Barrett requested medical attention?

A He was going to be given medical attention, okay? He did not request it in my presence.

Q Had he requested it before, if you know?

A I don't really know. To my knowledge, no.

Q You don't know or to your knowledge, though?

A I don't recall, to be honest with you. I don't recall that being discussed.

Q Being discussed with you?

A Yes. I do recall he had some injuries. And as far as medical attention, I don't really recall. I believe Officer Cameron may have stated he was going to take him to the hospital. I think it was Meriden Hospital; Meriden-Wallingford Hospital.

Q Did Officer Cameron mention that to you before the commencement of the interview?

A No, he did not.

Q Or was it during the interview itself?

A It was some point in time when I was in the office.

Q While it was going on?

A Or at the end of the conversation. I don't recall the exact sequence.

Q So plans were, in effect, made prior to the commencement of the interview to transport Mr. Barrett to either a hospital or to a doctor?

A Our policy is no matter what the injuries are, if there are injuries, the person is in our custody under arrest, we take these individuals for medical treatment; so that there is no responsibility placed on the police department.

Q That's your concern, is it not?

A No. You are also concerned that you don't want anybody who is injured or in pain to be subject to it.

Q I am sorry?

A It would be quite inhumane to let somebody suffer.

Q I agree.

A And that's the priority also; there were two priorities.

Q Was there a judgment call here on the part of the Wallingford Police Department that, okay, let's get the questioning out of the way, then we will take care of the medical aspect?

A I don't think you could put it in that light.

Q How would you put it?

A I would just say that he had a hand injury and a facial injury and he was going to be treated.

Like I told you, it is a two-prong situation whereby you are concerned, and depending upon the seriousness of the situation, how promptly you react to it if there is an immediate demand for it. If I was also—someone told me they needed medical attention, you make it a point to give it to him.

Q If that were to be the case, then the medical attention would have received priority; is that correct?

A As far as I was concerned or I am concerned.

Q There is no question, Mr. Barrett was in your custody or the custody of the Wallingford Police Department at that time?

A That is correct.

Q There is no question that at this time it was approximately eight o'clock in the morning?

A That is correct.

Q And procedurally, were plans made, if your know, Lieutenant Howard, were plans made to transport the suspects for arraignment purposes to GA-7 in Meriden that morning?

A Okay. That morning I did ask Mr. Barrett if he had been arrested before. He said he had not. I asked him if he knew what was going to happen. He said he was not sure. I explained to him the procedure that was going to occur that morning. A bond was set. If he does not make the bond, he

will be taken to court and arraigned at which time his bond would be kept the same, could be lowered or could be raised. Okay. And I explained that he would be presented in front of the judge that morning because he was not sure of the procedure. He said he had not been arrested before.

Q Did he appear to you to be nervous and upset, Lieutenant Howard?

A No. He was not nervous in my presence. He spoke freely. He was eating a hard roll and a cup of coffee.

Q In your office?

A Yes.

Q Did he request that or did you bring it in for him?

A We brought that in for him. Sergeant Genovese got it picked up.

Q And it was brought in for him?

A Yes.

Q Did he seem in any pain or discomfort in your judgment?

A I didn't detect any pain or serious discomfort. I am sure his hand was sore because of the swelling. I am sure it must have been all sore.

Q How about his face?

A There was discoloration under the one eye; okay.

Q And some swelling, I think you testified to?

A There was a little swelling.

Q In which you saw in the photograph, also?

A Yes.

Q If, in fact, a decision had been made, Lieutenant, to hold off on the questioning and transport Mr. Barrett to the hospital, would that have upset the procedures that you were involved in at that time?

A No. Because if he had to go to the hospital at that time, he would have been taken there and if he requested, we would have taken him.

Q You were not concerned about a particular time factor, were you, Officer Howard? The fact that he had to be in court at a certain time?

A No.

Q He could have been brought into court in the afternoon, for that matter; is that correct?

A Yes, he could have.

Q There is no set time on when a person is arraigned?

A They try to make it a set time but actually arraignment could be made at any time.

Q Did—withdrawn. Did Mr. Barrett indicate to you that he was successful in reaching his attorney?

A My understanding is he had called the attorney and that he would tell us verbally what transpired. He would not put it in writing until his attorney came, okay.

Q Was this told to you on more than one occasion or just the one time?

A As he came into the office, it was told to me.

Q By?

A By Mr. Barrett.

Q Had Sergeant Genovese mentioned anything along those lines?

A Officer Cameron, I think, also mentioned it to me. He did make some telephone calls and Sergeant Genovese mentioned that he made some calls and Officer Cameron also mentioned that he made some calls.

Sergeant Genovese said, "He will tell you verbally what transpired but he will not reduce it to writing until his attorney comes to the police department or comes to headquarters."

Q I see. So it was your understanding that Mr. Barrett's attorney was on his way. Is that correct?

A I really cannot answer that. My interpretation was: that is true.

Q I see. Did it become important to you then because of that, Lieutenant Howard, that the second interview be accomplished?

A Because of that particular reason?

Q That is right.

A The particular reason was that there was a malfunction in the tape recorder. That is one of the main reasons on the interview. Also, it was not to try to beat the attorney coming in.

Q Was the tape recorder set up right in your office, Lieutenant Howard?

A Yes, it was.

Q Is that the normal procedure?

A On felony investigations and interviews, it is; if possible.

Q Was Mr. Barrett told that his narrative was being recorded?

A No, he was not.

Q He had already indicated either directly to you or through one of your fellow officers that he did not want to make a written statement. Is that correct?

A That is correct.

Q Is it not consistent when a defendant or an accused indicates, Lieutenant Howard, that he does not wish to make a written statement but then a recording is made of his verbal statement—

MR. LYONS: I am going to object to that. That is a question for the Court.

THE COURT: I agree. I will sustain the objection.

MR. SOLOMON: All right, your Honor. I take an exception, please.

THE COURT: Exception may be noted.

Q Were you told by either Detective Genovese or Officer Cameron that Mr. Barrett was advised of his rights at an earlier point in the evening?

A Was I told?

Q Were you told?

A Yes, I was told by Officer Cameron.

Q Did he indicate what that advising rights entailed?

A I asked in my office. I asked if he had given his rights, and he said he did.

Q Who did you ask that of?

A Officer Cameron and also Mr. Barrett. And I in turn also told him I was going to read him his rights. Yes.

Q And that was when you read him the card?

THE COURT: Did you just indicate that the defendant had told you that he had already been advised of his rights?

MR. HOWARD: He agreed.

Q But that was in response to your posing the question?

A That is correct.

Q He did not volunteer that to you?

A What do you mean?

Q It was not a spontaneous thing. It was in response to what you had asked him?

A I don't recall exactly what I asked. I asked if that was correct and he said yes.

Q Were you told of the rights form and rights card procedures by Officer Cameron before you commenced your questioning?

A You mean specifically?

Q Specifically.

A No. He told me he gave me his rights.

Q But as far as what that entailed, you do not know or you did not know at that time?

A I asked Officer Cameron if he signed the card, I believe. I believe I asked him that question.

Q Do you remember what Officer Cameron said to you?

A Yes.

Q Do you know from a time reference, Lieutenant Howard, when the first interview occurred; what time?

A I cannot give you an exact time, no. But I believe it was probably two hours or so prior to my talking to him; an hour and a half, two hours; somewhere along there.

Q You indicated to Attorney Lyons that you read the card?

A Yes.

Q Is that card as a matter of course—withdrawn.

Do you request as a matter of course, after the reading of the card which has the Miranda rights thereon, do you normally request the subject to then sign the card?

A Yes. It is in the instance like if the tape recorder is going. I had a tape recorder going and I felt it was going to work properly. In this particular instance, it did not.

Q Is it required of you, Lieutenant Howard, that the accused sign the card?

MR. LYONS: I object to that, your Honor.

MR. SOLOMON: I think that is important, your Honor.

MR. LYONS: I don't think it is at all. I think that is a question for the Court to decide if it is important.

I think the officer has testified that he advised the defendant of his so-called rights. I don't know that the police department policy, one way or another, will affect the threshhold admissibility of the statement. I don't think it is a proper question.

THE COURT: What is your claim, counselor?

MR. SOLOMON: My claim, your Honor, is this: He has stated just a moment ago that he was relying on the recordation of this particular narrative by the accused to cement whatever went on there. Unfortunately, the device malfunctioned.

Lieutenant Howard said it was because of that reliance of the effective — depending on the effective recordation that he did not in this instance ask Mr. Barrett to sign the card.

THE COURT: I think you are taking that out of context.

He also said that he was aware at that time that the rights had previously been given and that the first card had been signed.

MR. SOLOMON: I know that. I was going to pursue that further, your Honor.

THE COURT: Whether or not at this stage of the case, he would deem it important that the card be signed, I think is irrelevant.

I will sustain the objection.

MR. SOLOMON: Let me have an exception, please.

THE COURT: It may be noted.

Q You have indicated you asked Mr. Barrett if he understood the contents or the context of what you read from the card?

A Yes, sir.

Q What was his reply to you?

A He did. He understood.

Q Was the card shown to him at any point during your interview?

A No. I read from the card.

Q You read from it?

A Yes, I did.

Q And you had prior knowledge that Mr. Barrett apparently had already executed one of those cards?

A Yes.

Q As recited to you by Officer Cameron?

A In the office, yes.

Q When did it come to light that the tape recorder malfunctioned?

A After he left the office I checked it. The wheels were turning but it did not record anything because of the malfunction in the receiver. And it was embarrassing.

Q Was that tape recorder subsequently sent out for repair?

A What happened, it was a loose wire and Sergeant Butka had taken care of it.

I don't know if Sergeant Butka tacked it on or if he took it to police headquarters to get some assistance. Occasionally, they do help us if an equipment malfunctions. I cannot answer specifically who fixed it. It had been — all it needed was the thing to be tacked.

Q It was subsequently repaired, however?

A Yes.

Q By the way, do you know of your own knowledge, Lieutenant Howard, if Mr. Barrett's attorney ever arrived at the Wallingford Police Department before he left to go to the hospital and then court?

A If he arrived, I am not aware of it. I am not aware of it.

Q You were involved in the transport process from the Wallingford Police Department to the hospital?

A No, I was not.

Q Could you please tell me who was?

MR. LYONS: I'm going to object, your Honor.

Irrelevant at this particular hearing.

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THE COURT: Where are we going from here with this?

MR. SOLOMON: Observations, your Honor, made by an officer during the transport process.

THE COURT: And your claim of relevance would be what?

MR. SOLOMON: If, in fact, inconsistencies developed as to the degree of the alleged facial injuries, then it goes to the weight and it will assist the Court in making a determination whether said injuries did or did not have an influence on the total picture of voluntariness.

THE COURT: I will allow the question.

A I don't know who took him. I cannot answer the question.

Q Would that be a matter of record?

A Who took him?

MR. LYONS: That is a fishing expedition. What does that have to do with his observations?

THE COURT: Now I think you are far afield. I will sustain the objection.

MR. SOLOMON: All right.

Q You did not accompany him to the hospital; is that correct? You did not, yourself, personally?

A No, I did not.

Q You did not accompany Mr. Barrett to court. Is that correct?

A No, I did not.

* * *

C. Transcript Of Judicial Ruling On Motion To Suppress Defendant William Barrett's Statements. (Tr. pp. 599–602)

* * *

As to Officer Cameron's testimony, which comes back now to the need of whether or not statements made to him or in his presence were voluntarily made after an intelligent waiver, I would indicate that the defendant, in fact, signed an initial rights form.

While that was being done, the Court concludes from the evidence it heard that he indicated he understood perfectly what was being read to him. Not only did he indicate that he understood, he offered the statements that he did not need anything explained to him because he understood. So it was not merely a passive acquiescence and his agreement that he understood, he did go on to explain that he did not need anything explained to him because he perfectly understood.

He then went on to indicate that he had no problem and those were his words, talking about the incident but he would not give a written statement until his attorney arrived which indicates to the Court that he certainly understood from having his rights read to him that it was not necessary and he was under no obligation to give any statement. He went on thereafter to sign another rights form after being again advised of his rights.

At this point we have testimony which the Court finds to be credible that in giving his own narration of the story that he at least on one occasion or perhaps more, ignored questions that were directed to him which is a further indication to the Court that he understood that that was his right, and he then was shown another rights card.

All of his rights were again read to him and he again indicated that he did not wish to give a written statement but agreed that he would talk about and furnished his own narration as to what happened.

I don't find that any force, any threats were used. I find that the statements were made by the defendant willingly, knowingly and intelligently after an effective knowledgeable waiver of his right to counsel at that point.

So the motion as it is directed to Officer Cameron's testimony is denied. And I think that brings us up to date.

* * *

THE COURT: It was the Court's intention to include statements made to Lieutenant Howard after he was shown the rights card, after he had already signed two and it again was read to him and he again at that time indicated that he had no problem in giving an oral statement but that he would not sign a written statement, all of which, again, indicated to the Court and I thought I made it clear, that he obviously understood he had that right and exercised it.

* * *

D. Transcript Of Testimony Of Officer Peter D. Cameron — Partial. (Tr. pp. 660-705 — Trial Testimony)

OFFICER PETER CAMERON, of the Wallingford Police Department, Wallingford, Connecticut, first having been duly sworn, was examined and testified on his oath as follows:

DIRECT EXAMINATION BY MR. LYONS:

Q Officer Cameron, for how long have you been employed by the Wallingford Police Department?

A Approximately six years.

Q And were you employed as a police officer for the Wallingford Police Department on October 24th of 1980?

A Yes, sir, I was.

Q And do you recall what shift you were working?

A The 11:00 to 7:00 shift.

Q 11:00 in the morning to 7:00 in the evening?

A Yes.

Q Now —

A I'm sorry; that is 11:00 at night till 7:00 in the morning.

Q Now, on the morning of October 24th of 1980, did you have occasion to have an individual by the name of William Barrett in your custody?

A Yes, sir, I did.

Q And where was that?

A The New Haven Police Department in the town of New Haven.

Q And then did you have occasion to transport that person to the Wallingford Police Department?

A Yes, I did.

Q And is that person present in this courtroom?

A Yes, he is.

Q Could you point him out for the Court and the jury?

A The gentleman seated at the defense table?

Q Seated right in front of where I am standing at this time?

A Yes, sir. That is correct.

MR. LYONS: May the record reflect he has identified the defendant?

THE COURT: The record may so indicate.

Q Now, in conjunction with having him in your custody at the Wallingford Police Department, did you have occasion to process him or book him, in police language?

A Yes, sir, I did.

Q And during the course of booking the defendant, did you have occasion to take personal data from him regarding his name, date of birth, et cetera?

A Yes, sir, I did.

Q And did you, in fact, ascertain his date of birth from him?

A Yes, sir, I did.

Q What was it?

A I believe it was 1/11/61.

Q And during the course of processing Mr. Barrett, did you have occasion to ask him what his educational level was?

A Yes, sir, I did.

Q What was it?

A That was the 12th grade.

Q And, again, at this time, did you have occasion to advise Mr. William Barrett of his so-called Miranda rights or his constitutional right to remain silent?

A Yes, sir, I did, as part of the normal booking procedure using a court-prepared form.

Q And did you, in fact, read from the court-prepared form?

A Yes, sir, I did.

Q And after you read it, did you do anything else with respect to it?

A I typed my name on it and had the defendant sign it as an indication that he had his rights given to him.

Q And did he, in fact, sign it in your presence?

A Yes, sir, he did.

Q And after that was signed in your presence, did you have occasion to forward it to the clerk of this court?

A Yes, sir, I did.

MR. LYONS: If the Court pleases, I would ask the Court to take judicial notice of what's in the Court's file.

I would have the officer give some preliminary identification testimony if the Court wishes. However, obviously, as it is the Court's file, I don't want to mark it as an exhibit. I don't think I can.

So am asking the Court to take judicial notice.

THE COURT: What is to be gained by the Court taking judicial notice of it?

MR. LYONS: So it becomes evidence for the jury to consider.

THE COURT: I don't know that I have to take judicial notice of it.

MR. LYONS: Then I will remove it to offer.

I would ask that this be marked for identification, your Honor.

THE COURT: It may be so marked.

(Whereupon, State's Exhibit V for identification was marked—rights form.)

Q Officer Cameron, showing you what has been marked as State's Exhibit V for identification, I will ask you to look at that document and tell me whether or not you recognize it?

A Yes, sir, I do.

Q And how do you recognize that?

A My name is on it. It is dated the 24th of October, 1980. The time is 6:12 and it is signed by the defendant at the bottom.

Q Was that signed by the defendant in your presence?

A Yes, sir, this is the court-prepared form I was referring to.

MR. LYONS: I would offer this as a full exhibit, your Honor.

MR. SOLOMON: I have no objection, your Honor.

THE COURT: It may be marked as a full exhibit.

(Whereupon, State's Exhibit V was admitted into evidence—rights form.)

MR. LYONS: May I just pass it briefly to the jury?

THE COURT: You may.

(Whereupon, the form was passed to the jury.)

Q Officer, now after that notice of rights form was signed by the defendant, did you have occasion to conduct an interview with the defendant with another officer?

A Yes, sir, I did.

Q And who was that other officer?

A There were two other officers in two separate interviews. The first being Sergeant John Genovese; the second being Lieutenant Howard.

Q With respect to the first interview, before that actually commenced, was there anything done by either you or Sergeant Genovese with respect to advising the defendant of his so-called Miranda rights?

A Yes, sir.

Q What was done?

A Sergeant Genovese read—

MR. SOLOMON: Your Honor, I am going to object on the basis that anything pertaining to Sergeant Genovese, unless he is going to be produced as a witness, your Honor, should not be forthcoming from Officer Cameron.

THE COURT: Well, I would certainly agree if it is in the nature of something Sergeant Genovese may have said.

MR. SOLOMON: Maybe my objection is preliminary.

I will withdraw my objection at this point, your Honor.

THE COURT: Thank you.

Q And was something—Well, perhaps, the question could be read back.

(Whereupon, the question was read back by the court reporter.)

A Yes, sir.

Q And was anything used to assist you or Sergeant Genovese in advising the defendant of his so-called Miranda rights?

A Yes, sir. A small wallet-sized copy of those so-called warnings; rights.

MR. LYONS: I would ask that this be marked as an exhibit for identification.

THE COURT: It may be so marked.

(Whereupon, State's Exhibit W for identification was marked—rights card.)

Q And showing you what has been marked as State's Exhibit W for identification, Officer Cameron, do you recognize that?

A Yes, sir, I do.

Q And how do you recognize it?

A My signature is on it.

Q Is there any other writing on there?

A Yes, sir. Sergeant Genovese also signed it.

Q Are you familiar with his handwriting?

A Yes, sir, I am.

Q Is that his handwriting?

A Yes, it is.

Q Was that typed in your presence?

A Yes, it was.

Q Is there any other writing on there?

A The time, 0630. It is dated 10/24/80 and it is signed by the defendant on the bottom.

Q Was that signed by the defendant in your presence?

A Yes, sir, it was.

MR. LYONS: At this point, I will offer it before I ask any questions with respect to it, your Honor.

MR. SOLOMON: No objection, your Honor.

THE COURT: It may be marked as a full exhibit.

(Whereupon, State's Exhibit W was admitted into evidence—rights card.)

MR. LYONS: With the Court's permission, I would like to pass this to the jury.

(Whereupon the document was passed to the jury.)

Q Now, Officer Cameron, where was this second advisement of rights done in the Wallingford Police Department?

A On the second floor in the Detective Division.

Q And was it done in a particular room?

A Yes, sir; the actual advisement of rights was done in the Detective Bureau.

Q And who was present in the room?

A Myself and Sergeant Genovese and the defendant.

Q Now, could you describe the defendant's physical appearance as best as you recall at that particular time?

A Somewhat disheveled; the clothes he was wearing. I believe it was his right hand, he had a small gash on the back of it. It was swollen somewhat. There also was a slight mouse or laceration bruise under one of his eye on his face. I don't recall on which eye or which side of the face that was.

MR. LYONS: I would ask that these be marked for identification.

MR. LYONS: I would ask that these be marked for identification.

THE COURT: They may be marked.

(Whereupon, State's Exhibit X, Y and Z were marked for identification.)

Q Showing you what has been marked as State's Exhibits for identification, X, Y and Z, could you look at those and tell me whether or not you recognize those, Officer Cameron; just yes or no?

A Two of them I do for sure. The other one I can't be positive about.

Q Would you look at both sides; which do you recognize for sure and the other one you cannot be positive?

A Z and Y are pictures of the defendant taken of the defendant at the time of his arrest as we were transporting him from New Haven to Wallingford Police Department.

Q And does it fairly and accurately depict what the defendant looked like on the morning of October 24th of 1980 at approximately 6:30 in the morning?

A Yes, sir.

MR. LYONS: I would offer these as full exhibits, your Honor.

MR. SOLOMON: May I inquire, your Honor?

THE COURT: You may.

MR. SOLOMON: Thank you.

VOIR DIRE EXAMINATION BY MR. SOLOMON:

Q Officer Cameron, where were these photos taken?

A By the look of the back, I would say in the downstairs booking room but I cannot be positive. It was downstairs.

Q Your department; Wallingford Police Department.

A Yes, sir. Wallingford Police Department.

Q Was this done when Mr. Barrett was first brought to the Wallingford police station?

A Yes, sir.

Q Did you take these photos or did Sergeant Genovese?

A I have no knowledge of who took them. I was only made aware that they were taken.

Sergeant Genovese informed me that, in fact, he did take pictures with a 35 millimeter camera but I was not present when he took them.

Q Did you see these photographs prior to this day?

A No, I have not.

Q But your recollection is this is a fair and accurate representation of the defendant based on your recollection when he was processed at the Wallingford police station?

A Yes, sir.

MR. SOLOMON: No objection, your Honor.

THE COURT: They may be marked as full exhibits.

(Whereupon, State's Exhibits Y and Z were admitted into evidence—photographs.)

Q Again, Officer, with respect to State's Exhibit X for identification, I would ask you again with respect to that alone, whether you recognize it or not?

A I recognize the handwriting on the back which states the hand of William Barrett taken on 10/24 by Sergeant Genovese with regard to this case.

One of the hands has a slight gash and swelling on the back as I remember the defendant.

Q Does that photo, to the best of your recollection, fairly and accurately depict his hand as you recall it?

A Yes, sir.

Q And as you testified to previously?

A Yes, sir.

MR. LYONS: I would offer it, your Honor.

VOIR DIRE EXAMINATION BY MR. SOLOMON:

Q When Attorney Lyons first addressed this photograph, called it to your attention, Officer Cameron, you indicated as far as recognition, that you could not be sure?

A That is correct, sir.

Q What is it you are telling us now that you recall that the hands reflected in this photograph, were as you remembered them on October 24, 1980?

A That is correct, sir.

Q Does the photograph in and of itself refresh your recollection as to the condition of his hands on that date?

A Yes, sir, it does. Having in respect to the gash and swelling.

Q And you did not take these pictures; it was Genovese. And, again, this was taken at the Wallingford police station?

A I really cannot answer that. It says it was. Therefore, I assume it was but I was not present when it was taken.

Q Have you seen this photograph before today's date?

A No, sir, I have not.

MR. SOLOMON: No objection.

THE COURT: It may be marked as a full exhibit.

(Whereupon, State's Exhibit X was admitted into evidence—photograph.)

MR. LYONS: May I pass these to the jury, your Honor?

(Whereupon, the photographs were passed to the jury.)

Q Now, Officer, have you ever dealt with people who are obviously under the influence of alcohol or narcotic substances?

A Yes, sir.

Q And did the defendant appear to be intoxicated by either alcohol or drugs on the morning of October 24th of 1980 at approximately 6:00 or 6:30?

A No, sir he did not.

Q And did he appear to understand your questions with regard to his constitutional rights?

A Yes, sir.

Q And was his speech coherent?

A Yes, sir.

Q And did he ever invoke his right to remain silent?

A No, sir, he did not.

Q Did you coerce him into making any statements with threat of bodily actions of any type?

A No, sir, I did not.

Q Did anyone in your presence coerce him into doing it?

A No, sir.

Q Did you or anybody else that you are aware of promise him anything in return for a statement?

A No, sir.

Q Did he, in fact, agree to answer questions and make a statement at some point?

A Yes, sir, he did.

Q And did he say anything with respect to whether he wanted his attorney present or not?

A He indicated to me in the original booking in the basement of the police station that he would not give a written statement unless his attorney was present, however, he would talk verbally about the incident.

Q And the second time after he was advised of his rights before the statement was actually taken, did he indicate anything with respect to whether or not he wanted his attorney present?

A No, sir, he did not.

Q And did he, in fact, make a statement in response to your questions and Sergeant Genovese's questions?

A Yes, sir, he did.

Q And to the best of your knowledge, was it freely and voluntarily given?

A Yes, sir.

Q And at any point during the course of the statement, did he refuse to answer any questions or simply say, "I want to stop; I don't want to go any further"?

A No, sir, he did not.

Q Could you please relate to the ladies and gentlemen of the jury what he told you that morning of October 24th of 1980, at approximately 6:30?

A Yes, sir. He told Sergeant Genovese and me that he had been in New Haven, the city of New Haven, approximately eight o'clock that evening with another friend. They were in his car driving around.

Q Did he say who that other fellow was?

A I believe the name given was Artis Newton.

They were driving around the city of New Haven. They saw a young lady standing on a street corner who one of them knew. I don't recall exactly what he said in regard to who knew her. That they stopped and asked her if she wanted a ride and she indicated that they could drop her off at a certain street in New Haven.

She got in the car. They drove by that street, made one stop for gas and got onto Route I-91 northbound. They drove up Interstate Route 91 northbound to Exit 14 in the town of Wallingford which is the Woodhouse Avenue exit. They exited.

Q Did he actually name that exit by name?

A I don't recall for sure. I believe he knew it was Woodhouse Avenue. I don't believe he knew exactly what exit it was.

That they exited at Woodhouse Avenue. That they proceeded what would be away from the town on Woodhouse Avenue to a road that he named as Tyler Mill Road. That once on Tyler Mill Road, they drove northbound up Tyler Mill Road from Woodhouse Avenue a short distance; parked the vehicle and at that point in his own words, they began hugging the young lady.

Q Officer, before he said that, did he indicate to you where they were respectively in the car before that so-called hugging began?

A On the drive to Wallingford from New Haven, I don't believe he ever did.

Q I am talking about once the car was on Tyler Mill Road, Officer.

A I believe he stated that they were both in the back seat hugging the young lady.

Then the story — his version of the story became a little confused. He stated at one point —

Q Let me bring you back a minute.

At the point that he stated that they began hugging Miss Jones, did he say anything with respect, as best you can recall, as to what she was doing at this time?

A Yes, sir. He said that she struggled or resisted the efforts of hugging her for approximately 20 minutes.

After that time, and again the exact sequence was somewhat confused at one point, he hopped over the seat back into the front seat. He reached down on the floor, the front seat of the car, and picked up a Phillips screwdriver at which point he held it up to the young lady's face and told he if she did not want cooperate, then she could get out of the car.

Q Did he say anything that she did at that point or said, if you recall?

A I don't recall offhand. After that point, or some point thereafter, and again it was somehwat out of sequence, that at one point she scratched the back of one of his hands and he slapped her on the back of the head.

That ultimately, himself and the other person in the car, Mr. Newton, had what he described as regular sexual intercourse, approximately three times with this young lady.

At some point he remembered that the young lady had exited the vehicle without any pants or underwear on and gone to the bathroom outside of the car.

He estimated that about eleven o'clock they went back; headed back to New Haven where they dropped this young lady off.

Q Now, when that interview was conducted, Officer Cameron, again, who was present at that particular time?

A Myself, Sergeant Genovese and the defendant.

Q Now, did you attempt to tape-record that segment?

A Yes, sir.

Q And what was the results of your efforts to tape-record it?

A There was a malfunction with the tape recorder. No recording was ever made. The tape recorder appeared to be working, however, it did not record.

Q Now, did you take part in the taking of a second statement or a second interview with the defendant later that morning?

A Yes, sir, I did.

Q And why was that done?

A It was an attempt to again record the defendant telling his side of the story, his version of the story, what had transpired the previous evening.

Q And where was that done?

A In Lieutenant Howard's office. The head of the Detective Division, in the Detective Division of the Wallingford police station.

Q And who was it done by?

A It was done by Lieutenant Howard and myself.

Q Sergeant Genovese was no longer there?

A He was no longer there.

Q On this occasion, was the defendant advised of his so-called Miranda rights again?

A Yes, sir.

Q And a second statement was taken?

A Yes, sir.

Q And was an attempt made to tape-record that statement?

A Yes, sir; using the same tape recorder.

Q What were the results of your efforts?

A The same as the first; evidently, there was something malfunctioning with the pickup device, the microphone and even thought it appeared to be working, no recording was ever made.

Q You stayed during the duration of the second interview?

A Yes, sir.

Q And subsequently you prepared a report summarizing the interviews?

A Yes, sir.

Q And was that report a summary of what you heard at both interviews?

A Yes, sir.

Q And, incidentally, when did you prepare your report in this case?

A Approximately one hour after the second interview that same morning.

Q And then who did you give your report to?

A At that point, I turned it over to the main investigating detective.

Q Who would that be?

A Detective Ginorio.

Q That would be on the 24th at what time in the morning?

A I would estimate around nine o'clock.

Q Showing you this three-page report, is that the report that you prepared in conjunction with your investigation of this case?

A Yes, sir. It is.

Q And is that the only report that you prepared?

A Yes, sir.

MR. LYONS: May the record reflect I am giving defense counsel a copy of the complete report?

THE COURT: The record may so reflect and we will take a short recess to give him an opportunity to digest it.

(Whereupon, there was a short recess.)

(Whereupon, court was back in session.)

THE COURT: Bring the jury in, please.

(Whereupon, the jury entered the courtroom.)

MR. LYONS: The State will stipulate to the presence of the jury, your Honor.

MR. SOLOMON: I will also, your Honor.

MR. LYONS: I have no further questions of Officer Cameron.

CROSS-EXAMINATION BY MR. SOLOMON:

Q Good morning, Officer Cameron.

A Good morning.

Q Officer Cameron, you prepared your report in this case on October 24th of 1980; is that correct?

A Yes, sir, it is.

Q And have you had an opportunity since that day to review your report?

A Yes, sir.

Q And when was that, sir?

A Several times. The latest, this morning.

Q This morning?

A Yes, sir.

Q This several times that you have alluded to, was this in preparation for your testimony?

A Yes, sir.

Q Your recitation of what the complainant — strike that. Withdrawn.

Your recitation of what Mr. Barrett told you, is that spelled out in your report?

A Yes, sir. I believe it basically is.

Q Are there any differences?

A I don't believe so. I don't recall any.

Q By the way, Officer Cameron, did you bring with you this morning in response to a subpoena that I have served on the Wallingford Police Department, copies of mug shots of William H. Barrett?

A Yes, sir.

Q Do you have them with you?

A Yes, sir.

Q May I see them, please?

(Whereupon, an envelope was handed to the attorney.)

MR. SOLOMON: Thank you.

Q Officer Cameron, did you have the benefit of any of the reports furnished your department before you interviewed William H. Barrett?

A I don't understand which other reports.

Q For example, the report prepared by Officer Illingworth of the New Haven Police Department?

A No, sir. I never saw it.

Q Did you see any of the reports prepared by any of the officers in the New Haven Police Department—

A No, sir.

Q —relating to this case?

A No, sir.

Q So, in essence, your report in this matter, Officer Cameron, summarized your involvement from the point of pickup of Mr. Barrett in New Haven, transport to Wallingford, and the subsequent booking and taking of two statements or interviewing him on two occasions?

A Yes, sir.

Q Was there any conference involving you and Detective Ginorio prior to the taking of either interviews in this matter?

A No, sir; there was not.

Q So your questioning or the narrative as supplied by Mr. Barrett, was done independent of any additional information that may have been available to your department?

A Yes, sir.

Q May I ask you this, Officer Cameron; the rights form that is supplied by the court and subsequently furnished by the court, the execution of that form, was that done downstairs in the booking area of the Wallingford Police Department?

A Yes, sir.

Q And was that done shortly after Mr. Barrett arrived at the Wallingford Police Department?

A Yes, sir.

Q And you were involved in the rights on that first form, the execution of that?

A Yes, sir.

Q Was any other officer present with you at that time?

A No, sir. There was not.

Q When was the smaller rights card executed? Was it done about the same time or was it done later upstairs on the second floor?

A It was done some time later on the second floor in the Detective Division.

Q Prior to the first commencement of the first interview?

A Yes.

Q Was anyone present with you at that time in the execution of that rights card?

A Yes, sir. Sergeant Genovese.

Q As a matter of course—withdrawn.

Was the terminology on the rights form, itself, read to Mr. Barrett prior to him signing same?

A Yes, sir, it was.

Q And do you recall, Officer Cameron, who read the terminology off the rights card?

A Sergeant Genovese did.

Q Were you present at the time of the reading of those rights?

A Yes, sir, I was.

Q Was this taking place in Lieutenant Howard's office at the police station?

A I believe the reading of the rights took place right outside the door of the Detective Division.

Q If you go out of Lieutenant Howard's office door, where do you end up?

A In the larger room known as the Detective Division.

Q Were there other officers present in this larger room at that time, if you can recall?

A I don't recall.

Q Where did the actual signing of the rights card take place; inside Lieutenant Howard's office or was it done outside in the larger area?

A It was done immediately after reading the rights card; right where we were in the Detective Division.

Q Was there a desk or something available to you to utilize?

A I believe so.

Q How many detectives are there in the Wallingford Police Department, if you know?

A I believe 11.

Q And this was an 11:00 to 7:00 shift that we are talking about?

A Yes, sir.

Q It was prior—it was about 6:30, I think you indicated that the first interview commenced?

A Yes, sir.

Q Would there have been other detectives on duty at that time?

A No, sir, there were not

Q Who would have been on duty at 11:00 to 7:00 in the Detective Bureau?

A No one.

Q No one?

A They have no one working the first shift or the third shift, whatever; the 11:00 to 7:00 shift.

Q I see. Is Sergeant Genovese assigned to the Detective Bureau?

A No, sir, he is not.

Q Did there come a time when you were closeted in Lieutenant Howard's office with the defendant, William H. Barrett?

A Yes, sir.

Q Was this shortly after the execution of the rights card?

A Immediately after.

Q Okay. Could you describe his office for me, please?

A That's quite small. It has got a single desk in it with a normal file, in and out baskets, et cetera. There is a small book shelf behind it with cases, books, et cetera, and various materials piled up on a ledge by a window.

There is a window facing outside. The room is approximately, to the best of my recollection, approximately, I would say about 11 by 15, if that. It may be smaller than that.

Q I see. When was it that you asked — I believe you mentioned it on two occasions — and please correct me if — when was it that you asked Mr. Barrett if he wished to make a written statement?

A After the original execution of the court-prepared rights form. At the booking procedure, I inquired of him if he wished to talk to the police to make a written statement, et cetera. And he indicated that he would not make a written statement until his lawyer was there but he would talk to us about the incident.

Q That was when he was first there. That was downstairs?

A Yes.

Q You were present when he said that?

A Yes, sir.

Q He said it to you, as a matter of fact?

A Yes, sir. I was the only one present.

Q Did there come another time, Officer Cameron, that you inquired of Mr. Barrett whether he wished to make a written statement?

A I didn't but others present did.

Q Could you say where that happened?

A At both interviews. Sergeant Genovese at the first and Lieutenant Howard at the second inquired whether or not he had changed his mind.

Q And wished to make a written statement?

A And wished to make a written statement.

Q And what was his response on both occasions?

A Again, in order for him to make a written statement, he wanted his attorney present.

Q Do you know of your own knowledge, Officer Cameron, if Mr. Barrett had an opportunity to use the telephone?

A Yes, sir; during the booking procedure, he made several telephone calls.

Q Several?

A Yes, sir.

Q Were you present when the telephone calls were made?

A I was in the same room but I did not hear who he was calling or what was said.

Q Do you know if he reached an attorney or not?

A I had no idea.

Q Did he indicate to you if he had reached an attorney?

A No, sir.

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Q Was it made known to Mr. Barrett during or before the first interview, before the commencement of same, that your department was recording the interview?

A No, sir.

Q And as applies to interview Number 2, was it made known to Mr. Barrett that that subsequent interview was being recorded by the Wallingford Police Department?

A No, sir.

Q Both attempts at recordation by the Wallingford Police Department were unsuccessful; is that correct?

A That is correct.

Q So is it not a fair statement, or a fair question, Officer Cameron, to ask you that your report in this matter contains your recollection of what was said to you by the defendant, William H. Barrett, on two occasions, at both interviews?

A Basically, yes, sir.

Q In essence, is it not a summary, your summary of what Mr. Barrett said to you during the course of the two interviews?

A Yes, sir, it is.

Q Are there points mentioned to you by the defendant, William H. Barrett, at either interview that are not contained within your written summary of what he said?

A There very well might be. And after reviewing my report, I do remember one or two slight variations of other facts or things that were said.

Q But they are not contained in your written report; is that correct, Officer?

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A That is correct.

Q Am I to assume, Officer Cameron, that your narrative summary of what William H. Barrett stated to you — and you were present during both interviews; is that correct?

A Yes, sir.

Q Does your narrative summary reflect what was said by Mr. Barrett at both interviews?

A Yes, sir.

MR. LYONS: I am going to object, your Honor. It has been asked and answered. I don't know how many ways it can be asked.

THE COURT: I believe it has.

I will sustain the objection.

MR. SOLOMON: It was answered, anyway, your Honor.

Q The points that you recall, the slight variations that were not included in your narrative summary, did those come from interview Number 1 or interview Number 2, if you can remember?

A I cannot say for certain which interview they actually came from.

Q May I ask this, please, Officer Cameron; during the first interview, were you directing questions to Mr. Barrett?

A Some questions.

Q Was Officer Genovese directing questions to Mr. Barrett?

A Again, some questions.

Q And was Mr. Barrett responding to your questions?

A On occasion, he would. On occasion, he would just continue with what he was saying and more or less ignore the question.

Q Were the purpo of the questions more for clarification than anything else in your judgment?

A As best I remember, yes, sir, they were.

Q Was Mr. Barrett giving you essentially a narrative of what had transpired?

A Yes, sir.

Q And did there come a time during the course of the narrative that either you or Sergeant Genovese would interrupt his narrative and ask a question?

A I don't recall specific occasions.

Q But you do recall asking some questions?

A Yes, sir.

Q And Sergeant Genovese asked some questions?

A Yes, sir.

Q During the first interview, did you and/or Sergeant Genovese take notes?

A I did not, sir. I cannot say whether Sergeant Genovese did or not.

Q You were in the same room with him; is that correct?

A Yes, sir.

Q Is it your practice during an interview to take notes, Officer Cameron?

A Generally; however, in this case, the tape recorder was—we thought it was recording the entire incident, thus negating the need for any written notes.

Q I see. And that would apply to interview Number 2 also is that correct?

A Yes, sir.

Q Officer Cameron, how much time elapsed if you can recall, between interview Number 1 and interview Number 2?

A I cannot say exactly. I would approximate an hour.

Q About an hour?

A Maybe less.

Q Were both interviews conducted in the same place?

A Yes, sir.

Q Lieutenant Howard's office?

A Correct, sir.

Q Did the format—was the format of interview Number 1 followed at the second session with you and Howard present?

A Yes, sir, it was.

Q Basically, a narrative by the defendant, William H. Barrett?

A Yes, sir.

Q With the interjection of some questions by you and were there some questions also by Lieutenant Howard?

A Yes, sir.

Q Were there some questions posed by you and Lieutenant Howard?

A The ones that I remember, there were, sir, yes.

Q Were those questions asked primarily for the purpose of clarification, Officer Cameron?

A Most were, yes, sir.

Q Did you have any advance knowledge of what had transpired prior to either interview?

A No, sir.

Q So your questioning then, Officer Cameron, was strictly on the basis of the narrative as being told you then by Mr. Barrett?

A Yes, sir.

Q And your attempt to clarify certain points?

A Yes, sir.

Q Officer Cameron, do you recall testifying, I believe, it was a prior day?

A Yes, I do.

Q And that was at the suppression hearing, is that correct?

A Yes, sir.

Q Do you remember, Officer Cameron, my asking you a question regarding the physical condition of the defendant, William H. Barrett?

A Yes, sir.

Q And do you remember your answers to my questions, sir?

A I recall describing the physical condition or any physical appearance of the accused at the time of booking, yes, sir.

Q And do you remember what you told me in response to my questions, Officer Cameron, as to Mr. Barrett's physical condition when you first observed him?

A Basically; not exactly.

Q Do you remember telling me, Officer Cameron, anything about the condition of his eye?

A I believe you asked me a question if there was anything wrong with his face. Did I notice anything wrong with his face. I did not recall that.

Q Earlier in response to Attorney Lyons' questions, do you recall indicating, Officer Cameron, that there was a slight mouse under his eye; you are not sure which eye it was?

A That is correct, sir.

Q Did Mr. Barrett appear nervous and upset when he was talking to you?

A He was upset over the fact that he had been arrested, yes, sir.

Q Officer Cameron, I show you the mug shots that you brought to court this morning in response to my subpoena and ask you if those were the mug shots taken of the defendant, William H. Barrett, in the early morning hours of October 24, 1980?

A Yes, sir, they were.

Q And were those mug shots, Officer, kept in a file at the Wallingford Police Department?

A Yes, they were.

Q And to your knowledge, had they been disturbed or not removed until this morning that you brought them to court?

A I would have no knowledge of that.

Q Were these the only mug shots taken of the defendant that you are aware of?

A They were the only pictures taken of the defendant that I was aware of.

Q We also have some other photos that have been introduced. They were taken also, right?

A Yes, sir. At the time, until today in court, I had not seen them.

Q You had not seen the others?

A No, sir.

Q Do these photographs or mug shots as they are commonly known, Officer Cameron, reflect accurately the condition of Mr. Barrett's face in the early morning hours of October 24, 1980?

A Yes, sir, they do.

Q Thank you.

MR. SOLOMON: I offer this, your Honor.

MR. LYONS: No objection.

THE COURT: It may be marked; Defendant's Exhibit 1—photograph.

(Whereupon, Defendant's Exhibit 1 was admitted into evidence—photograph.)

MR. SOLOMON: May I pass it among the jury, your Honor?

THE COURT: After I have seen it.

MR. SOLOMON: Sure.

(Whereupon, the photograph was handed to the Court.)

(Whereupon, the photograph was passed to the jury.)

Q Officer, were those photos taken during the normal process and booking of Mr. Barrett at the Wallingford Police Department?

A Yes, sir, they were.

Q Let me ask you this, Officer; did Mr. Barrett ever inquire of you, of you I am talking about now, that he would like someone to take a look at his eye or his face?

A I don't recall him ever making that request.

Q Did he ask you that he would like a doctor or someone to take a look at him?

A No, sir.

Q Were you aware of the condition of his face as represented in those photographs during the course of your questioning?

A Yes, sir.

Q Did there come a time to your knowledge, Officer Cameron, that medical attention was provided Mr. Barrett?

A Yes, sir. At one point, they were transported to a local hospital; both Mr. Barrett and the codefendant, and examined in the emergency room.

Q What hospital was that?

A World War II Veterans Memorial Hospital in Meriden.

Q Did that occur, Officer Cameron, after the completion of the interviews at the Wallingford Police Department?

A I don't recall the exact time in between the two interviews or if it was after the interviews. I don't recall the exact time that they were taken to the hospital.

Q You then, I assume, were not involved in the transport of Artis and/or Barrett to the hospital?

A Yes, I was.

Q You, personally, took them?

A I believe I was accompanied by another officer. That would be standard procedure but I don't recall who that was.

Q But you don't recall, Officer Cameron, if that occurred after the second interview with you and Howard or in between?

A I cannot say for sure.

Q Were you present when Mr. Barrett was examined at the World War II Veterans Memorial Hospital?

A Yes, sir.

Q Where was that done; in the emergency room?

A Yes.

Q As a result of that examination of Mr. Barrett at the hospital, did you become aware of any particular findings regarding his condition?

MR. LYONS: I will object, your Honor. I will not object to his question; I will object to the next question.

THE COURT: You may answer the question.

A No, sir. I really don't recall anything specific with regard to it.

Q Was a medical report ever furnished your department regarding his condition?

A To my knowledge, no.

Q Was one sought by your department.

A To my knowledge, again, no.

Q Officer Cameron, in response to Attorney Lyons' questions, and asking you to recite what was said to you by the essence of what Mr. Barrett said to you during the two

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interviews, the recitation in your testimony was that a complete recitation of what was said?

A No. It was basically a summary of what was said.

Q Is your in-court testimony the same then that would have been contained in your report that was written up shortly after this?

A I believe so. Yes, sir.

Q And you have already indicated that you have had an opportunity to review your report?

A Yes, sir.

Q Was there any mention made by Defendant Barrett during his interview, and I am bringing you back to the evening of October 23, 1980, Officer Cameron, was there any mention made of his stop in a package store?

A I recall somewhere along the line that being mentioned. By whom and at what time, I don't recall.

Q Okay. Then I am compelled to ask you this. Do you recall it being stated to you by Mr. Barrett at either interview?

A Again, I don't recall who stated it specifically.

Q Would it have been included in your report of the mention of the package store?

A I don't believe it was, no.

Q You indicated you might have heard it from someone else; is that correct?

A At some point in time with my dealings with the case; I really don't recall when or by whom.

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Q Officer, Mr. Lyons asked you if Mr. Barrett had indicated the exit that was taken as the vehicle left I-91 and I believe you said it was stated to be Woodhouse Avenue.

A That is correct.

Q Was there an exit number given you?

A I don't recall if Mr. Barrett actually gave me the number of the exit. I know that he stated it was Woodhouse Avenue.

Q If he had given you the number of the exit, would you have included it in your narrative summary?

A I most likely would have, sir.

Q Do you recall the length of the respective interviews; the first one involving you and Genovese and Barrett and the second one involving you, Howard and Barrett; the length of each one?

Let's take the first one, if you like, Officer Cameron.

A I will approximate 30 minutes. Again, if the tape recorder did come out, the starting time was announced on the tape and the ending time was announced.

Q That would have told us?

A I would approximate 30 minutes.

Q Would it be fair to say, Officer Cameron, that your recitation of what Mr. Barrett said to you and Genovese at interview Number 1 here in court moments ago lasted approximately five minutes?

A Yes, sir.

Q How long did interview Number 2 take?

A Somewhat shorter than interview Number 1. Anywhere from, I would say, it could have gone between 20 and 30 minutes.

Q And your recitation in earlier testimony this morning, was your summary of what Mr. Barrett said at both interviews?

A Yes, sir.

Q Did Mr. Barrett during the course of either interview, if you can recall, Officer Cameron, go into any details as to what happened in the vehicle on the night in question, October 23, 1980, in Wallingford?

A As far as I stated already, he went into that much detail; perhaps a little more in repeating some things. But as I summarized before, that much detail.

Q Does your narrative summary reflect the details as given to you by Mr. Barrett at either or both interviews or is it somewhat less detailed?

A It does not contain his actual words; each exact sentence or the thought of each sentence is a generalization of what happened; what he said in both interviews.

Q If you use a quotation, if you are quoting from Mr. Barrett in writing up your narrative summary, do you normally enclose those words in quotation marks?

A I would, as a habit, normally. Whether I did in this case or not, I cannot recall, specifically.

Q What I am asking you as opposed to your own terminology—

Q What I am asking you as opposed to your own terminology—

A Yes, sir.

Q —Officer Cameron, would your report, Officer, tell us when the subjects were transported to the hospital?

A I believe it does state in there, if I recall, that after the culmination of the interviews, I believe, I cannot recall specifically; I am trying to recall exactly what it says.

Q Would taking a look at your report help you recall?

A Most definitely.

(Whereupon, the report was handed to the officer.)

A Yes, it does.

Q After looking at your report, are you able to recall, Officer Cameron?

A Yes, sir.

Q And what is your recollection?

A After speaking with the officers, they were taken to the hospital.

Q Would I take it to mean after the second interview was concluded that the transportation to the hospital took place?

A I would assume after looking at my report, yes, sir.

* * *

E. Transcript Of Testimony Of The Defendant William Barrett—Partial. (Tr. pp. 855–889)

Q Did there come a time, Mr. Barrett, that you left the New Haven Police Department?

A Yes.

Q And under what circumstances did you leave?

A Like Ginorio, the lady cop and the tall guy, I am not sure of his name, but they had came and they had said that they were charging us with felony and if we tried to run that he would shoot us and they were taking us to Wallingford.

Q Excuse me. May I have that read back, please?

THE COURT: You did not understand the answer?

MR. SOLOMON: I did not hear it, your Honor.

(Whereupon, the answer was read back by the court reporter.)

Q And were you transported to Wallingford, Mr. Barrett?

A Yes. But before we went to Wallingford Police Department, we had stopped at Whalley Avenue and they had got these other clothes like blue clothes for us.

Q A stop was made at Whalley Avenue?

A Yes. To pick up some clothes, yes.

Q And did there come a time that you arrived at the Wallingford Police Department?

A Yes.

Q And do you have any idea, Mr. Barrett, what time it was that you arrived at the Wallingford Police Department?

A It was -- I would say it was early in the morning. I am not sure of the time, no.

Q How were you feeling about the time that you arrived at the Wallingford police station?

A I still felt the same. Like things were blurry and my eyes were bothering me.

Q Did you call the condition of your eyes to the attention of the Wallingford police officers?

A Yes, I did.

Q Were you offered medical attention upon arrival at the Wallingford police station?

A No. They did not offer to us.

Q What was the first thing that happened to you, Mr. Barrett, after arriving at the Wallingford police station?

A Like, I don't know, he had a mustache; he was a big cop. He had told me to stand up against the wall and he wanted to take some pictures of me.

Q Was it then that some pictures were taken of you?

A Yes.

Q Were these the mug shots that have been introduced into evidence?

A No. These were like I still had my other clothes on. This was when we had first really gotten inside the place.

Q Were these the full-length photographs that have been introduced into evidence?

A Yes.

Q I see. And what happened after that, Mr. Barrett?

A And then like they made us sit downstairs and take off our clothes and put on the blue clothes that they had got from Whalley Avenue for us.

Q And was that done?

A Yes.

Q Where were you at this point in time within the police station?

A In the basement as far as I remember. I am not sure what they call that because—but it was in the basement of the police station.

Q Had you been—withdrawn.

What happened after the transfer of the clothing?

A Then like he took me in like this other room and like told me to put my hands in some ink or something.

Q Yes? Were you fingerprinted?

A Fingerprinted. And then press my hand on the paper and then he took my pictures.

Q Were those the mug shots?

A Yes.

Q That have been introduced into evidence?

A Yes.

Q And after that procedure of the fingerprinting and mug shots, Mr. Barrett, what happened next?

A And we came back in the room and, I don't know his name, but the big cop again, like brought me these two papers over to this desk where I was sitting and told me to sign these. These were like something, my writings or something like that.

Q And did you sign them?

A Yes, I did.

Q Did you sign a longer form first?

A Like I signed the longer form and then I signed the card; but all like at the same time.

Q It was done at the same time?

A Yes.

Q And who was present during that, if you know, Mr. Barrett?

A The big cop again, I don't know his name, and the cop that went, the skinny cop that took us to the hospital and Robert Artis and this younger white dude about maybe 16.

Q And was this still in the basement area as you described it of the Wallingford police station?

A Yes.

Q And after the signing of these two pieces of paper, what happened next, Mr. Barrett?

A And then like he had said, like I could make a telephone call.

I had asked him before and he told me to wait. At that time I called my mother and I told her where I was and what happened and stuff.

Q Did you talk to anyone else on the telephone that evening?

A No, I did not.

Q Did you talk to an attorney that evening?

A No, I did not.

Q Did you have an attorney?

A No, I never had an attorney.

Q Did they—withdrawn.

Did you talk to your mother on the telephone?

A Yes.

Q And did you tell her what happened?

A Yes. Like I really did not get a chance to talk to her that long. Because, again, the big cop had told me to hurry up. For what reason, I don't know.

Q And after the phone conversation with your mom, what happened next, Mr. Barrett?

A And then the skinny cop, again, I cannot remember his name right now, but he had came downstairs and told me to come upstairs with him.

Q And did you go upstairs with him?

A Yes.

Q Was Mr. Artis with you at this time?

A No. He was still downstairs. I guess around that time he was calling his mother.

Q And when you got upstairs, Mr. Barrett, where were you taken?

A To—I don't know. It is like to this room. All I know it is like, it was like about this size. Maybe this size from there to there, and it had a lot of desks in it.

Q A lot of desks?

A Yes.

Q And what happened when you got into that area?

A And then like he told me like did I want to tell him what happened and I started telling him like the story like I have just told you.

Q Who was present as you were telling your story, Mr. Barrett?

A Just me and Officer—the tall guy—I cannot remember his name. But it was just me and the guy that brought us back from New Haven.

Q Was anyone else present to your recollection?

A No. Nobody else was in the room.

Q Would you describe it as an office at this time?

A It was more like—it was just, I would not say an office; I would say a room like, more like a room than an office.

Q I see. Before you started to give your story to this officer, did they ask you, Mr. Barrett, if you wanted to make a written statement?

A No. They did not.

Q They did not?

A No.

Q You have heard testimony, Mr. Barrett, in this court that Officer Cameron indicated that he had asked you if you cared to make a written statement.

MR. LYONS: If the Court pleases, I am going to object. That is counsel's recollection of the testimony and now he is testifying. I object to the form of the question.

THE COURT: I will sustain the objection.

MR. SOLOMON: I will withdraw it, your Honor.

Q So you then told Officer—you don't remember the officer's name—some officer—it was the officer that brought you back from New Haven to the Wallingford Police Department?

A Yes.

Q All right. You then told the officer your story?

A Yes.

Q Is that correct?

A Yes, I did.

Q And did you—the story that you indicated to the officer is it the same story that you are telling us this morning, Mr. Barrett?

A Yes, it is.

Q Were you telling your story in a narrative fashion, Mr. Barrett?

Do you know what I mean by the word "narrative"?

A Not really, no.

Q Was it a question—withdrawn.

Were they asking you questions?

A Like when I was telling them part of it and then he would like put things in, like trying to bring things in and I would make an answer to his question and then tell him the rest like how it happened and stuff.

Q You were telling what happened and then there might be some questions along the way?

A Yes.

Q And then you would respond to the questions; is that correct?

A Yes.

Q And then you would continue on with your story?

A Yes.

Q Was that the way it went during this interview?

A Yes, pretty much, yes.

Q Were you ever told, Mr. Barrett, that your interview was being recorded?

A No.

Q How long did that interview take?

A Maybe about a half an hour.

Q And before you commenced that interview, did you sign any additional papers in the presence of the police officer?

A No. I had signed all papers downstairs.

Q Downstairs?

A Yes.

Q And you remember signing two pieces of paper downstairs?

A Yes; the long one and the little card.

Q How much time elapsed, Mr. Barrett, between the time you executed the two pieces of paper downstairs and the time you commenced giving your story to the officer?

A I maybe talked to my mother for about five minutes; maybe ten minutes.

Q I see. What happened after you concluded giving your version of what happened, Mr. Barrett?

A Like he took me downstairs and they put me like in a cell.

Q And what was your condition? What was your physical condition at that point in time?

A It still was the same. I had asked them on the way downstairs if they were going to take us to the doctor and he had said that I had to wait a while.

Q And how long did you remain in the cell downstairs, Mr. Barrett?

A Maybe about a half hour or so; I am not really sure.

Q And did anyone talk to you in the cell while you were there?

A Yes. Like they had put me in the cell with Robert, Shag; he was in the cell. When I had gotten down to the cell, he was already down there.

Q Were you talking to Mr. Artis during this time?

A Yes. And then at that time, like when he put me in the cell, Shag said—

MR. LYONS: I am going to object to anything of any conversation.

THE COURT: Sustained.

Q You cannot tell us what he said.

A I'm sorry.

Q There was a conversation?

A Yes.

Q What happened after, after the half hour period to you; where were you brought?

A Then the same officer came downstairs again and told me that the chief wanted to talk to me.

Q Did he mention the chief by name?

A No. Not then, no.

Q Were you brought back upstairs again?

A Yes.

Q To where Mr. Barrett?

A To the chief's office.

Q Was this the same room that you were or office that you were the first time?

A No; this was not. This was just one desk room with like a couple of chairs. It was real small.

Q I see. And where—who was present in that room at this time?

A Cameron, the tall guy, me and I guess the lieutenant; chief, whatever.

Q Three people?

A Yes.

Q Was the door to that office closed?

A Yes.

Q And did the officers tell you why you were now being brought up a second time and placed in this office?

A No. He just had referred to me as the chief wanted to talk to me so I just went upstairs to talk to him.

Q When you got upstairs, what did they say to you?

A Like he had told me who he was and they had like started asking me like the same things that he had asked me before over again.

Q And did you respond in a narrative fashion or in a story fashion as to what happened, Mr. Barrett?

A Yes, I did.

Q And were there times during the course of your talking that the officers would ask you questions?

A Yes. Not as many as the first time but a couple of times.

Q I see. And did you indicate to the officers, Mr. Barrett, what you are indicating to us here today in court?

A Yes.

Q Did the officers, either one, the chief that you referred to or the other officer, Cameron, I believe you said, did they have you execute any pieces of paper; sign any pieces of paper before you started this second interview?

A No, they did not.

Q Was anything read to you before you commenced the second interview?

A No.

Q Did the officers, either before or after the interview, ask you if you wanted to make a written statement?

A No. They never asked me at no time while I was at the police station did I want to make a written statement.

Q Did they tell you, Mr. Barrett, at any time during the second interview, that you were being recorded?

A No.

Q Were the same things covered in interview Number 2 that were covered in interview Number 1?

A Yes, they were.

Q Now, at the termination of this second interview, Mr. Barrett, what was your physical condition?

A Like it was still the same. If anything, like it had gotten worse. Because, you know, it was getting harder to see and things were still blurry. And right then, I started rubbing my eyes and they had started hurting more at this time.

Q Did you request medical attention of anyone at the Wallingford police station at that point in time?

A Yes. I had told the guy, the chief, when were they going to take us to the hospital.

Q Now, did you see or talk to, Mr. Barrett, any other members of the Wallingford Police Department during the course of the time there in addition to the officers you have already told us about?

A Like as far as telling them what happened?

Q First of all, as far as telling what happened?

A No.

Q Did you see any other officers that have testified here in court during this trial there that evening?

A No, I did not.

Q What I mean, did you see visually Detective Ginorio?

A I had seen her, yes.

Q Where was she?

A Like when I first came out of the first room upstairs, she was sitting like behind the door and she was removing this cassette from the tape player at this time.

Q When was that?

A This was after the first interview.

Q You saw her removing something?

A I saw her removing a tape from the tape player.

Q Mr. Barrett, you have heard the testimony of Officer Cameron in this case, have you not?

A Yes.

Q And you have heard what Officer Cameron said you said to him at the Wallingford police station during the two interviews. Is that correct?

A Yes.

Q Was Officer Cameron's testimony as you recall it, an accurate reflection of what you told him during the course of the two interviews?

A No, it was not.

Q Did there come a time that you were transported to a hospital?

A Yes, there was.

Q And when did that occur, Mr. Barrett?

A Maybe about 9:30, 10:00. Something like that. I am not really sure.

Q In the a.m.?

A Yes. It was in the morning time.

Q And do you remember what hospital you went to?

A Veterans Memorial.

* * *

Q Where in the hospital?

A In the emergency room.

Q Was your face looked at at the hospital?

A Yes, it was.

Q Were your hands looked at at the hospital?

A Briefly, yes.

Q What were you told to do regarding your injuries, if anything, Mr. Barrett?

A That I was supposed to see an eye doctor within three days after he had made a prescription out for some kind of drops. I am not sure what kind but he had stated that he wanted me to see an eye doctor within three days.

Q Would that have been the doctor at the emergency room?

A Yes.

Q From the emergency room at the hospital, where did you go, Mr. Barrett?

A We came back to the Wallingford police station.

Q And were you there for a period of time?

A Not that long; maybe about 15 minutes.

Q And after that, where did you go?

A To the courthouse.

Q Where?

A I am not sure. I guess Wallingford. I am not sure where the courthouse is in Wallingford.

Q But you were brought to court eventually that morning?

A Yes.

Q Did you have an attorney at court when you arrived that morning?

A Of my own?

Q Of your own.

A No. Like there was—I guess it was his job, the guy that represented all the people that come there. It was not my attorney. It was just the attorney for the courthouse.

Q Did you have an attorney at that time?

A No. I did not have one, no.

Q And, Mr. Barrett, after your court appearance that morning—by the way, do you remember approximately what time it was that you got to court? Was it still the morning hours?

A Maybe about 11:00, 12:00; I am not really sure.

Q After court, where did you go?

A We went to Whalley Avenue.

Q What's at Whalley Avenue?

MR. LYONS: I am going to object on the grounds of relevance.

* * *

***about force and her asking to get out of the car, that is just a pack of lies, too?

A Yes, it is.

Q And with respect to being advised of your so-called Miranda rights, or constitutional rights at the Wallingford Police Department on the morning of October 24th of 1980, you just testified, did you not, that you were advised once?

A Downstairs, yes.

Q And by whom? I forgot.

A I think it was, like I said, the big cop.

Q The tall—

A No. Big, mustache.

Q Not the cop that testified before the jury?

A No.

Q And did you hear your rights as they were read to you?

A Yes, I did.

Q So did your blurry vision interfere with your ability to hear your rights?

You heard your rights, did you?

A Yes, I did.

Q And did you understand them as they were read to you?

A Yes.

Q And did you tell the officer you understood your constitutional rights as they were read to you?

A I am not sure I told him I understood but I heard him read them.

Q I am asking you now. Did you understand them?

A Yes, I did.

Q And you knew what your rights were right there and then?

MR. SOLOMON: Now he's going on and on. He has asked the question if he understood and it was responded yes.

THE COURT: I think, counsel, you gave a couple of on and on but I am satisfied the question is asked and answered.

Q After being advised of your constitutional rights, one time, you testified you signed two pieces of paper at the same time; is that correct?

A Yes.

Q And you are sure about that?

A Yes, I am.

Q Now, showing you what has been marked as State's Exhibit Z, would you please look at that, Mr. Barrett, and indicate what the date and time advised is on that form?

A 6:12.

Q 6:12 when? A.M. or P.M.

A It just says a.m.

Q And is that your signature that appears here?

A Yes, it is.

Q And did you read this before signing that form?

A Like—

Q Yes or no, please?

A No, I did not read it. He gave me a brief description of it.

Q He did not read it to you from that form?

A No.

Q You heard him testify that he did?

A I heard him testify a lot of things that he did.

Q He is lying when he said he read from this form?

A Yes, he is.

Q But it does say here 6:12 a.m.?

A Yes.

Q And did you sign it?

A Yes, I did.

Q Now, showing you what has been marked as State's Exhibit—incidentally, what is the police officer's name who is on that form?

A Cameron.

Q And he is the tall officer who testified in this case?

A Yes.

Q Showing you what has been marked as State's Exhibit W, does that contain your signature?

A Yes, it does.

Q And you signed that at the same time that you signed this form; is that correct?

A Yes.

Q After being advised once of your so-called constitutional rights?

A Yes.

Q Could you read those four digit numbers?

A 0630.

Q And did you hear Officer Cameron testify that you signed this at 6:30 in the morning after being advised again of your constitutional rights?

A I heard him say that.

Q He is lying about this, too?

A Yes, he is.

THE COURT: It is one o'clock. I will caution the jury to please remember my earlier admonishments.

Thank you. See you at two o'clock.

(Whereupon, the luncheon recess was taken.)

(Whereupon, court was back in session.)

* * *

Q Mr. Barrett, at some point you have testified after you signed forms that you were brought upstairs to the upper floor of the Wallingford Police Department; is that correct?

A Yes.

Q And at that point, someone asked you questions and you told them your story; is that correct?

A Yes, sir.

Q Who was that person, again?

A Cameron.

Q Officer Cameron?

A Yes.

Q And did you testify that you told that story to Officer Cameron alone and nobody else was in the room?

A Yes.

Q Now, did you hear Officer Cameron testify that another person, Sergeant John Genovese, was present during that?

A Yes, I did.

Q And would Officer Cameron be lying about that fact to the jury?

A Yes. Because it was just me and him in the room.

MR. SOLOMON: Your Honor, I don't know if I am on solid ground or not, very frankly, but maybe, it is cross.

Attorney Lyons continues to use the word "lying." I don't know how the Court feels about that. I am somewhat ambivalent, myself, but he is using it several times and I imagine he is going to use it almost to the point, your Honor, where it will become a regular word in his cross.

I am going to object, your Honor, on the basis that I feel, number one, it is inflammatory; number two, it is an improper suggestion.

The function of whether the jury is to believe a particular witness, your Honor, is strictly theirs. I just feel uncomfortable about the word "lying." I don't know how your Honor reacts to that.

THE COURT: Mr. Lyons, would you care to respond?

MR. LYONS: Frankly, I don't see anything wrong with it. If the Court does not want me to proceed in that way, I won't.

I think the door was open to some extent by counsel's questions on direct examination of his own

client when he asked a question about the accuracy of Officer Cameron's testimony and statements.

I think it is a fair for me to probe that which I am trying to do.

THE COURT: Well, all you are accomplishing with that characterization, you are seeking the characterization from the witness. Really, he is not in a position to be able to tell whether something is true or untrue or whether it comes from someone else.

It could be a mistake; it could be anything. I think that is a question for the jury to decide and I would caution you not to use that characterization.

MR. LYONS: Fine.

Q Mr. Barrett, Officer Cameron, as you recall, did testify that Sergeant Genovese was present, correct?

A Yes.

Q And you have testified that he was not, correct?

A Yes.

Q And at some point that interview, or whatever you want to call it, ended; did it not?

A Yes.

Q And you were returned to the cell in a basement floor?

A Yes.

Q And about a half hour later, you were brought back up again to the upper floor; is that correct?

A Yes.

Q Now, at that time, you testified that Cameron said you were going to see the chief or lieutenant. Do you recall which it was?

A He referred to him as the chief. But like I found out, it was the lieutenant.

Q Would that be Lieutenant Murt Howard?

A I guess so; I don't know.

Q Did he refer to him as chief of detectives, if you recall?

A I just remember chief.

Q But later you learned it was Lieutenant Murt Howard?

A Yes.

Q And you have testified that you spoke to Officer Cameron and the lieutenant a second time; is that correct?

A Yes.

Q Now, prior to the time that they spoke to you, did either one or both of them advise you of your so-called Miranda rights?

A At the time I spoke to them, they never advised me of the rights. I had been read the rights downstairs.

Q Right at that moment before they proceeded with that second interview they never read you your rights?

A They did not.

Q And you heard Officer Cameron tell the ladies and gentlemen of the jury that the rights were, in fact, read to you?

A Yes.

Q And you have testified that on neither occasion did any officer ask you if you wished to make a written statement; is that correct?

A Yes, I did.

Q And you heard Officer Cameron testify that that opportunity was given to you; is that correct?

A Yes.

Q And you further testified that the story that you told to the Wallingford police on the morning of October 24th of 1980, is the same as the story you have told today in court; is that not correct?

A Yes.

* * *